

<i>SERFF Tracking Number:</i>	<i>WESA-125576959</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>Ironshore Indemnity, Inc.</i>	<i>State Tracking Number:</i>	<i>#2074 \$50</i>
<i>Company Tracking Number:</i>	<i>EPLI-08-001</i>		
<i>TOI:</i>	<i>17.1 Other Liability - Claims Made Only</i>	<i>Sub-TOI:</i>	<i>17.1010 Employment Practices Liability</i>
<i>Product Name:</i>	<i>Employment Practices Liability Insurance Product (EPLI)</i>		
<i>Project Name/Number:</i>	<i>Submission of EPLI Product - New Program/EPLI-08-001</i>		

Filing at a Glance

Company: Ironshore Indemnity, Inc.

Product Name: Employment Practices Liability Insurance Product (EPLI) SERFF Tr Num: WESA-125576959 State: Arkansas

Insurance Product (EPLI)

TOI: 17.1 Other Liability - Claims Made Only

SERFF Status: Closed

State Tr Num: #2074 \$50

Sub-TOI: 17.1010 Employment Practices Liability

Co Tr Num: EPLI-08-001

State Status: Fees verified and received

Filing Type: Form

Co Status:

Reviewer(s): Betty Montesi, Edith Roberts, Brittany Yielding

Authors: Westmont Associates, Wesley Pohler

Disposition Date: 04/10/2008

Date Submitted: 03/27/2008

Disposition Status: Approved

Effective Date Requested (New): On Approval

Effective Date (New):

Effective Date Requested (Renewal): On Approval

Effective Date (Renewal):

State Filing Description:

General Information

Project Name: Submission of EPLI Product - New Program

Project Number: EPLI-08-001

Status of Filing in Domicile: Pending

Domicile Status Comments: Pending in Minnesota

Reference Organization: None

Reference Number: None

Reference Title: None

Advisory Org. Circular: None

Filing Status Changed: 04/10/2008

State Status Changed: 04/02/2008

Deemer Date:

Corresponding Filing Tracking Number:

Filing Description:

Enclosed please find attached Ironshore Indemnity Inc's (the "Company") Employment Practices Liability Insurance Product (EPLI) submission for your review and approval. This is a new filing and does not replace any forms currently on file in your jurisdiction. A letter permitting Westmont Associates, Inc. to submit this filing on the Company's behalf is enclosed.

SERFF Tracking Number: WESA-125576959 State: Arkansas
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 Company Tracking Number: EPLI-08-001
 TOI: 17.1 Other Liability - Claims Made Only Sub-TOI: 17.1010 Employment Practices Liability
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The Company's filing is substantially similar to National Specialty Insurance Company's currently approved Employment Practices Liability Insurance Product (EPLI) filing submission, with Company identifying information revised accordingly.

Company and Contact

Filing Contact Information

(This filing was made by a third party - westmontassociatesinc)

Wesley Pohler, AVP wes@westmontlaw.com
 25 Chestnut Street (856) 216-0220 [Phone]
 Haddonfield, NJ 08033 (856) 216-0303[FAX]

Filing Company Information

Ironshore Indemnity, Inc. CoCode: 23647 State of Domicile: Minnesota
 1 Exchange Plaza Group Code: Company Type: Property and Casualty
 55 Broadway, 12th Floor
 New York, NY 10006 Group Name: State ID Number:
 (646) 826-6600 ext. [Phone] FEIN Number: 41-0121640

Filing Fees

Fee Required? Yes
 Fee Amount: \$50.00
 Retaliatory? No
 Fee Explanation: AR Fee - \$50.00
 Per Company: No

COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
Ironshore Indemnity, Inc.	\$0.00	03/27/2008	

CHECK NUMBER	CHECK AMOUNT	CHECK DATE
2074	\$50.00	03/27/2008

SERFF Tracking Number: WESA-125576959 State: Arkansas

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Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Approved	Edith Roberts	04/10/2008	04/10/2008

Objection Letters and Response Letters

Objection Letters				Response Letters		
Status	Created By	Created On	Date Submitted	Responded By	Created On	Date Submitted
Pending Industry Response	Edith Roberts	04/02/2008	04/02/2008	Westmont Associates	04/02/2008	04/02/2008

Amendments

Item	Schedule	Created By	Created On	Date Submitted
Arkansas - Amend Notice Provision	Form	Westmont Associates	04/02/2008	04/02/2008
Arkansas - Employee Benefit Plan Fiduciary Insurance Combo Endorsement (Separate Limit)	Form	Westmont Associates	04/02/2008	04/02/2008

<i>SERFF Tracking Number:</i>	<i>WESA-125576959</i>	<i>State:</i>	<i>Arkansas</i>
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Disposition

Disposition Date: 04/10/2008

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

SERFF Tracking Number: WESA-125576959 State: Arkansas
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Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Supporting Document	III Letter of Authorization	Approved	Yes
Supporting Document	Cover Letter	Approved	Yes
Supporting Document	EPLI AR - Approval - National Specialty	Approved	Yes
Form	Arkansas Application for Insurance	Approved	Yes
Form	Employment Practices Insurance Policy	Approved	Yes
	Dec Page		
Form	Employment Insurance Policy	Approved	Yes
Form	3rd Party Separate Retention	Approved	Yes
Form (revised)	Arkansas - Amend Notice Provision	Approved	Yes
Form	Amend Notice Provision	Approved	Yes
Form	Bankruptcy/Insolvency/Creditors	Approved	Yes
	Exclusion		
Form	Coinsurance Endorsement	Approved	Yes
Form	Copyright/Patent/Intellectual Property	Approved	Yes
	Rights Exclusion		
Form	Family Exclusion	Approved	Yes
Form	Intellectual Property Exclusion	Approved	Yes
Form	Prior Act Exclusion	Approved	Yes
Form (revised)	Arkansas - Employee Benefit Plan	Approved	Yes
	Fiduciary Insurance Combo Endorsement (Separate Limit)		
Form	Employee Benefit Plan Fiduciary	Approved	Yes
	Insurance Combo Endorsement (Separate Limit)		
Form	"Run-Off" coverage Exclusion	Approved	Yes
Form	Sexual Misconduct and Child Abuse	Approved	Yes
	Exclusion		
Form	Specific Entity Exclusion (Claims Brought Against)	Approved	Yes
Form	Specific Entity Exclusion (Claims Brought By)	Approved	Yes
Form	Specific Entity Exclusion (Claims Brought	Approved	Yes

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By or Against)

Form	Specific Individual Exclusion	Approved	Yes
Form	Specific Investigation/Claim/Litigation/Event or Act Exclusion	Approved	Yes
Form	Arkansas Amendatory Endorsement	Approved	Yes

SERFF Tracking Number: WESA-125576959 State: Arkansas
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Objection Letter

Objection Letter Status Pending Industry Response
Objection Letter Date 04/02/2008
Submitted Date 04/02/2008

Respond By Date

Dear Wesley Pohler,

This will acknowledge receipt of the captioned filing.

Please amend Form EPLI.EX.002 (10/07 ed.) to reference 60 days, rather than 30 days to file a claim.

Also, this program is defense within limits. Please confirm that the program will comply with AID Exemption Order 96-194 which requires minimum limits of liability of \$500,000 and a signed consent form acknowledging the reduction or exhaustion of the limits by payment of defense.

Please feel free to contact me if you have questions.

Sincerely,

Edith Roberts

Response Letter

Response Letter Status Submitted to State
Response Letter Date 04/02/2008
Submitted Date 04/02/2008

Dear Edith Roberts,

Comments:

Response 1

Comments: We hereby confirm that the program will comply with AID Exemption Order 96-194.

Best regards,

Wes

Changed Items:

SERFF Tracking Number: *WESA-125576959* *State:* *Arkansas*
Filing Company: *Ironshore Indemnity, Inc.* *State Tracking Number:* *#2074 \$50*
Company Tracking Number: *EPLI-08-001*
TOI: *17.1 Other Liability - Claims Made Only* *Sub-TOI:* *17.1010 Employment Practices Liability*
Product Name: *Employment Practices Liability Insurance Product (EPLI)*
Project Name/Number: *Submission of EPLI Product - New Program/EPLI-08-001*

No Supporting Documents changed.

No Form Schedule items changed.

No Rate/Rule Schedule items changed.

Sincerely,
Wesley Pohler, Westmont Associates

SERFF Tracking Number: WESA-125576959 State: Arkansas

Filing Company: Ironshore Indemnity, Inc. State Tracking Number: #2074 \$50

Company Tracking Number: EPLI-08-001

TOI: 17.1 Other Liability - Claims Made Only Sub-TOI: 17.1010 Employment Practices Liability

Product Name: Employment Practices Liability Insurance Product (EPLI)

Project Name/Number: Submission of EPLI Product - New Program/EPLI-08-001

Amendment Letter

Amendment Date:

Submitted Date: 04/02/2008

Comments:

My apologies - I should have included the attached state specific forms in my original filing. This should answer item #1.
I will deal with item #2 soon.

Best regards,

Wes

Changed Items:

Form Schedule Item Changes:

Form Name	Form Number	Edition Date	Form Type	Action	Replaced Form #	Previous Filing #	Readability Score	Attachments
Arkansas - Amend Notice Provision	EPLI.EX.002 AR	10/07	Endorsement/Conditions	New			0	Amended Notice Provision - AR.pdf
Form Name	Form Number	Edition Date	Form Type	Action	Replaced Form #	Previous Filing #	Readability Score	Attachments
Arkansas - Employee Benefit Plan Fiduciary Insurance Combo Endorsement (Separate Limit)	EPLI.EX.009 AR	10/07	Endorsement/Conditions	New			0	PTL Separate Limits EPLI EX 009 - AR.pdf

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Project Name/Number: Submission of EPLI Product - New Program/EPLI-08-001

Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Arkansas Application for Insurance	EPLI.001 AR (11/07 Ed.)	11/07	Application/ New Binder/Enrollment		0.00	EPLI Application EPLI 001 AR.pdf
Approved	Employment Practices Insurance Policy Dec Page	EPLI.002	09/07	Declaration New s/Schedule		0.00	EPLI Dec Page.EPLI.002.pdf
Approved	Employment Insurance Policy	EPLI.003	09/07	Policy/Coverage Form		0.00	EPLI Policy.EPLI.003.pdf
Approved	3rd Party Separate Retention	EPLI.EX.001	10/07	Endorsement/Amendment/Conditions		0.00	3RD Party Seperate Retention.EPLI.EX.001.pdf
Approved	Arkansas - Amend Notice Provision	EPLI.EX.002 AR	10/07	Endorsement/Amendment/Conditions		0.00	Amended Notice Provision - AR.pdf
Approved	Bankruptcy/Insolvency/Creditors Exclusion	EPLI.EX.003	10/07	Endorsement/Amendment/Conditions		0.00	Bankruptcy Insolvency Creditors Exclusion.EPLI.EX.003.pdf
Approved	Coinsurance Endorsement	EPLI.EX.004	10/07	Endorsement/Amendment/Conditions		0.00	Coinsurance .EPLI.EX.004.pdf
Approved	Copyright/Patent/Intellectual Property Rights	EPLI.EX.005	10/07	Endorsement/Amendment/Conditions		0.00	Copyright Patent Intellectual

SERFF Tracking Number: WESA-125576959 State: Arkansas

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Product Name: Employment Practices Liability Insurance Product (EPLI)

Project Name/Number: Submission of EPLI Product - New Program/EPLI-08-001

	Exclusion		ons		Property Rights Exclusion.E PLI.EX.005.pdf
Approved	Family Exclusion	EPLI.EX.0 10/07 06	Endorseme New nt/Amendm ent/Condi ti ons	0.00	Family Exclusion.E PLI.EX.006.pdf
Approved	Intellectual Property Exclusion	EPLI.EX.0 10/07 07	Endorseme New nt/Amendm ent/Condi ti ons	0.00	Intellectual Property Exclusion.E PLI.EX.007.pdf
Approved	Prior Act Exclusion	EPLI.EX.0 10/07 08	Endorseme New nt/Amendm ent/Condi ti ons	0.00	Prior Act Exclusion.E PLI.EX.008.pdf
Approved	Arkansas - Employee Benefit Plan Fiduciary Insurance Combo Endorsement (Separate Limit)	EPLI.EX.0 10/07 09 AR	Endorseme New nt/Amendm ent/Condi ti ons	0.00	PTL Separate Limits EPLI EX 009 - AR.pdf
Approved	"Run-Off" coverage Exclusion	EPLI.EX.0 10/07 10	Endorseme New nt/Amendm ent/Condi ti ons	0.00	Run-Off Coverage.E PLI.EX.010.pdf
Approved	Sexual Misconduct and Child Abuse Exclusion	EPLI.EX.0 10/07 11	Endorseme New nt/Amendm ent/Condi ti ons	0.00	Sexual Misconduct and Child Abuse Exclusion.E PLI.EX.011.pdf
Approved	Specific Entity Exclusion (Claims Brought Against)	EPLI.EX.0 10/07 12	Endorseme New nt/Amendm ent/Condi ti	0.00	Specific Entity Exclusion -

SERFF Tracking Number: WESA-125576959 State: Arkansas
 Filing Company: Ironshore Indemnity, Inc. State Tracking Number: #2074 \$50
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			ons		Claims Brought Against.EPLI .EX.012.pdf
Approved	Specific Entity Exclusion (Claims13 Brought By)	EPLI.EX.0 10/07	Endorseme New nt/Amendm ent/Condi ons	0.00	Specific Entity Exclusion - Claims Brought By.EPLI.EX. 013.pdf
Approved	Specific Entity Exclusion (Claims14 Brought By or Against)	EPLI.EX.0 10/07	Endorseme New nt/Amendm ent/Condi ons	0.00	Specific Entity Exclusion - Claims Brought By or Against.EPLI .EX.014.pdf
Approved	Specific Individual Exclusion	EPLI.EX.0 10/07 15	Endorseme New nt/Amendm ent/Condi ons	0.00	Specific Individual Exclusion.E PLI.EX.015. pdf
Approved	Specific Investigation/Clai 16 m/Litigation/Event or Act Exclusion	EPLI.EX.0 10/07	Endorseme New nt/Amendm ent/Condi ons	0.00	Specific Investigation Exclusion.E PLI.EX.016. pdf
Approved	Arkansas Amendatory Endorsement	EPLI AR 10/07	Endorseme New nt/Amendm ent/Condi ons		AR EPLI - Clean Copy - REVISED (3).pdf

IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

**ARKANSAS APPLICATION FOR
EMPLOYMENT PRACTICES INSURANCE POLICY**

NOTICE: THIS APPLICATION IS FOR A CLAIMS-MADE AND REPORTED POLICY. IF ISSUED, THE POLICY ONLY APPLIES TO AN "EMPLOYMENT PRACTICES CLAIM" FIRST MADE DURING THE "POLICY PERIOD" (OR THE DISCOVERY PERIOD) AND REPORTED TO THE INSURER AS SOON AS PRACTICABLE BUT IN ANY EVENT NO LATER THAN SIXTY (60) DAYS AFTER THE TERMINATION OF THE POLICY. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED, AND MAY BE EXHAUSTED, BY "COSTS OF DEFENSE." "COSTS OF DEFENSE" WILL BE APPLIED AGAINST THE RETENTION. IF A POLICY IS ISSUED, THE COVERAGE AFFORDED DIFFERS IN SOME RESPECTS FROM THAT AFFORDED UNDER OTHER POLICIES. PLEASE READ THE ENTIRE APPLICATION CAREFULLY BEFORE SIGNING IT.

1. a) Name of **Applicant**: _____
(Whenever used in this Application, the term "**Applicant**" shall mean the Corporation and subsidiaries.)
- b) Principal address: _____
City: _____ State: _____ ZIP: _____
- c) Date and state of incorporation: _____
- d) Nature of operations: _____

- e) Name, title and phone # of the officer of the **Applicant** designated as the Risk Manager or equivalent contact: _____

2. Current Insurance:
- | | |
|---|--|
| <u>D&O (Directors & Officers Liability) -</u> | <u>Comprehensive General Liability:</u> |
| Carrier(s) _____ | Carrier(s) _____ |
| Limit _____ | Limit _____ |
| Premium _____ | Premium _____ |
| Expiration _____ | Expiration _____ |
| <u>EPL (Employment Practices Liability) -</u> | <u>Workman's Compensation Liability:</u> |
| Carrier(s) _____ | Carrier(s) _____ |
| Limit _____ | Limit _____ |
| Premium _____ | Premium _____ |
| Expiration _____ | Expiration _____ |

(Attach additional page as an attachment if space provided is insufficient.)

3. Have any of the **Applicant's** D&O, EPL, CGL or Workman's Comp carriers indicated an intent not to offer renewal terms? ☐ Yes ☐ No
(If "Yes," please provide details as an attachment to this Application.)

4. **FINANCIAL INFORMATION**

Please provide the following financial information for the **Applicant** and its subsidiaries.
Information must be based on the most recent audited financials or interim financials if audited financials are not available.

a. Please provide the following Financial Information for the **Applicant** and its subsidiaries

Based on Financial Statements Dated:	_____ (Year/Month)
Total Assets	\$ _____
Total Liabilities	\$ _____
Total Revenues/Contributions	\$ _____
<input type="checkbox"/> Net Income <input type="checkbox"/> Net Loss	\$ _____
Cashflow from operations	\$ _____

b. Has the **Applicant** or any of its subsidiaries changed auditors in the past year? ☐ Yes ☐ No ☐ N/A
(If "Yes," please provide complete details.)

5. Has the **Applicant** in the past twenty-four (24) months had, or in the next twenty-four (24) months anticipate any merger, acquisition, consolidation, reductions in force, early retirements, or any plant, facility, branch or office closing, consolidations, restructuring, terminations or layoffs? ☐ Yes ☐ No
(If "Yes," please provide details by attachment to this Application.)

6. Enter the TOTAL number of employees (by type) in the boxes below.
Note: Seasonal, Temporary and Leased Employees to be included as Part-Time employees (Non-Union if Domestic)

Number Employees in ALL STATES/JURISDICTIONS:

Total Number of Employees: _____ (broken down as follows:)

	Domestic		Foreign
	Union	Non-Union	
Full Time			
Part Time			

Total Number of Independent Contractors	
---	--

Enter the number of employees (by type) in the specified jurisdictions ONLY in the boxes below.

Note: Seasonal, Temporary and Leased Employees to be included as Part-Time employees (Non-Union if Domestic)

Number of Employees located in CALIFORNIA ONLY:

	Domestic	
	Union	Non-Union
Full Time		
Part Time		

Total Number of Independent Contractors	
---	--

Number of Employees located in DISTRICT OF COLUMBIA, FLORIDA, MICHIGAN & TEXAS ONLY (collectively):

	Domestic	
	Union	Non-Union
Full Time		
Part Time		

Total Number of Independent Contractors	
---	--

7. a) Percentage of employees with salaries (including bonuses):

Less than \$25,000 _____ %

\$25,000 - \$50,000 _____ %

\$50,000 - \$100,000 _____ %

Greater than \$100,000 _____ %

b) How many employees or officers have been involuntarily terminated in the past two (2) years?

(Year 1) _____ (Year 2) _____

c) What percentage (%) of your employees has turned over in the past two (2) years?

(Year 1) _____% (Year 2) _____%

8. Does the **Applicant** --

have a full-time Human Resources manager?

☐ Yes ☐ No

have a written policy prohibiting discrimination?

☐ Yes ☐ No

have a written policy prohibiting sexual harassment?

☐ Yes ☐ No

have a written policy for handling complaints of sexual harassment?

☐ Yes ☐ No

have a written policy for handling actual or alleged employment practices complaints?

☐ Yes ☐ No

require all employees to complete an application for employment?

☐ Yes ☐ No

have a written policy for family and medical leave?

☐ Yes ☐ No

have an employee handbook?

☐ Yes ☐ No

have posted employment policies and procedures?

☐ Yes ☐ No

use outside legal counsel for employment practices advice, including terminations?

☐ Yes ☐ No

have a formal "At-Will" statement in the employee handbook and employment application?

☐ Yes ☐ No

require independent contractors performing services under the exclusive direction of the

Applicant be subject to the **Applicant's** human resources policies?

☐ Yes ☐ No

9. Does the **Applicant** have policies or procedures outlining employee conduct when dealing with the general public or persons outside of the **Applicant's** direction or control?

☐ Yes ☐ No

(If "Yes," please provide a copy.)

10. Does the **Applicant** have policies or procedures for dealing with complaints from the general public, customers, clients, patrons, visitors, or other third parties for issues involving harassment or discrimination?

☐ Yes ☐ No

(If "Yes," please provide a copy.)

11. How often does the **Applicant** hold training seminars to teach employees about illegal employment practices in the workplace? Yearly _____ Semi-Annually _____ Quarterly _____ Monthly _____

12. Are all employees provided with a copy of an employee handbook and required to acknowledge receipt of same in the form of a record maintained by the **Applicant**?

☐ Yes ☐ No

13. Is there a formal protocol for reporting employment practice violations conspicuously posted in the **Applicant's** workplace?

☐ Yes ☐ No

14. Please state the name of the **Applicant's** current employment practices consultant or law firm: _____

15. Please state the name of the **Applicant's** General Counsel or person most likely to address any employment practice complaint likely to exceed the Retention for this proposed insurance: _____

16. Are employees required to first resolve all employment practices complaints pursuant to arbitration?

(If "Yes," please provide details.)

☐ Yes ☐ No

17. Does the **Applicant** have a formal, written procedure that must be followed before an employee may be terminated?

(If "Yes," please provide details or a copy of the procedures to be followed.)

☐ Yes ☐ No

18. Does the **Applicant** have a hiring system (i.e. 2 or more decision makers in hiring) in place that ensures diversity in the workplace?
(If "Yes," please provide details) ☐ Yes ☐ No
19. How often does the **Applicant** evaluate its percentage of minority hires, generally, to the overall employee makeup of the Corporation and in the ranks of management to ensure compliance with all local, state and federal discrimination laws?

Yearly _____ Semi-Annually _____ Quarterly _____ Monthly _____
20. Does the **Applicant** engage in the EEOC's voluntary dispute resolution program to promptly resolve employment practices claims? ☐ Yes ☐ No
21. Does the **Applicant** have policies or procedures for dealing with complaints from the general public, customers, clients, patrons, visitors, or other third parties for issues involving harassment or discrimination? ☐ Yes ☐ No
(If "Yes," please provide a copy.)

Only complete Question 22 if the Applicant does not have any insurance in place.

22. Past Activities: (Questions 22 a) and b) below are representations and warranties.)
- a) No claim that may fall within the scope of the proposed insurance has been made against any person(s) or entity(ies) proposed for this insurance (including without limitation any claim against any such person(s) or entity(ies) for any employment practices claim, as described in the proposed insurance policy, or any notice of charge or complaint against any such person(s) or entity(ies) before the U.S. Equal Employment Opportunity Commission or any similar state or local authority), except as follows (include loss payment and costs of defense):
(If none, check here: ☐ "None".)
- _____
- _____
- _____
- b) No person(s) or entity(ies) proposed for this insurance is cognizant of any fact, circumstance or situation (including without limitation any actual, suspected or threatened audit, demand, grievance or claim against any such person(s) or entity(ies) for any employment practices claim, as described in the proposed insurance policy, or any actual, suspected or threatened notice of charge or complaint against any such person(s) or entity(ies) before the U.S. Equal Employment Opportunity Commission or any similar state or local authority) which might be the basis for any claim that may fall within the scope of the proposed insurance, except as follows: (If none, check here: ☐ "None".)
- _____
- _____
- _____

IT IS UNDERSTOOD AND AGREED AS TO QUESTIONS 22 a) AND 22 b) ABOVE THAT IF ANY SUCH THREAT, CLAIM OR DEMAND EXISTS, OR ANY SUCH FACTS OR CIRCUMSTANCE EXISTS WHICH COULD GIVE RISE TO A CLAIM, THEN THE FOREGOING AND ANY CLAIM(S) ARISING FROM SUCH THREAT, CLAIM, DEMAND, FACTS OR CIRCUMSTANCES ARE EXCLUDED FROM THIS PROPOSED INSURANCE.

23. As part of this Application, please submit the following documents with respect to the **Applicant** --
- a) most recent annual report or audited financial statements (including any notes or schedules).
 - b) summary and status of any litigation filed within the last thirty-six (36) months by or against any person(s) or entity(ies) proposed for this insurance (including any litigation that has been resolved).
 - c) any Human Resource manuals, guidelines or indemnification agreements between the **Applicant** and any leased worker or independent contractor.
 - d) copy of the employee handbook (if the **Applicant** has more than two hundred fifty (250) employees).

THE UNDERSIGNED AUTHORIZED MANAGER OF THE **APPLICANT** DECLARES THAT THE STATEMENTS SET FORTH HEREIN ARE TRUE. THE UNDERSIGNED AUTHORIZED MANAGER AGREES THAT IF THE INFORMATION SUPPLIED ON THIS APPLICATION CHANGES BETWEEN THE DATE OF THIS APPLICATION AND THE EFFECTIVE DATE OF THE

INSURANCE, HE/SHE (UNDERSIGNED) WILL, IN ORDER FOR THE INFORMATION TO BE ACCURATE, ON THE EFFECTIVE DATE OF THE INSURANCE, IMMEDIATELY NOTIFY THE INSURER OF SUCH CHANGES, AND THE INSURER MAY WITHDRAW OR MODIFY ANY OUTSTANDING QUOTATIONS AND/OR AUTHORIZATIONS OR AGREEMENTS TO BIND THE INSURANCE.

SIGNING OF THIS APPLICATION DOES NOT BIND THE **APPLICANT** OR THE INSURER TO COMPLETE THE INSURANCE, BUT IT IS AGREED THAT THIS APPLICATION SHALL FORM THE BASIS OF THE CONTRACT SHOULD A POLICY BE ISSUED AND IT WILL BE ATTACHED TO AND BECOME A PART OF THE POLICY.

ALL WRITTEN STATEMENTS, DOCUMENTS AND MATERIALS FURNISHED TO THE INSURER IN CONJUNCTION WITH THIS APPLICATION ARE HEREBY INCORPORATED BY REFERENCE INTO THIS APPLICATION AND MADE A PART HEREOF.

NOTICE TO APPLICANTS: ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS THE PERSON TO CRIMINAL PENALTIES.

NOTICE TO ARKANSAS, NEW MEXICO AND WEST VIRGINIA APPLICANTS: ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT, OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

NOTICE TO COLORADO APPLICANTS: IT IS UNLAWFUL TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING FACTS OR INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES, DENIAL OF INSURANCE AND CIVIL DAMAGES. ANY INSURANCE COMPANY OR AGENT OF AN INSURANCE COMPANY WHO KNOWINGLY PROVIDES FALSE, INCOMPLETE OR MISLEADING FACTS OR INFORMATION TO A POLICYHOLDER OR CLAIMANT FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE POLICYHOLDER OR CLAIMANT WITH REGARD TO A SETTLEMENT OR AWARD PAYABLE FROM INSURANCE PROCEEDS SHALL BE REPORTED TO THE COLORADO DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AUHTORITIES.

NOTICE TO DISTRICT OF COLUMBIA APPLICANTS: WARNING: IT IS A CRIME TO PROVIDE FALSE OR MISLEADING INFORMATION TO AN INSURER FOR THE PURPOSE OF DEFRAUDING THE INSURER OR ANY OTHER PERSON, PENALTIES INCLUDE IMPRISONMENT AND/OR FINES. IN ADDITION, AN INSURER MAY DENY INSURANCE BENEFITS IF FALSE INFORMATION MATERIALLY RELATED TO A CLAIM WAS PROVIDED BY THE APPLICANT.

NOTICE TO FLORIDA APPLICANTS: ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY OF THE THIRD DEGREE.

NOTICE TO KENTUCKY APPLICANTS: ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON, FILES A STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT, MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, SUBJECT TO CRIMINAL PROSECUTION AND CIVIL PENALTIES.

NOTICE TO LOUISIANA APPLICANTS: ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

NOTICE TO MAINE APPLICANTS: IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES OR A DENIAL OF INSURANCE BENEFITS.

NOTICE TO NEW JERSEY APPLICANTS: ANY PERSON WHO INCLUDES ANY FALSE AND MISLEADING INFORMATION ON AN APPLICATION FOR AN INSURANCE POLICY IS SUBJECT TO CRIMINAL AND CIVIL PENALTIES.

NOTICE TO NEW YORK APPLICANTS: ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT

TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS (\$5,000) AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION.

NOTICE TO OHIO APPLICANTS: ANY PERSON WHO, WITH INTENT TO DEFRAUD OR KNOWING THAT HE/SHE IS FACILITATING A FRAUD AGAINST AN INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT IS GUILTY OF INSURANCE FRAUD.

NOTICE TO OKLAHOMA APPLICANTS - WARNING: ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD OR DECEIVE ANY INSURER, MAKES ANY CLAIM FOR THE PROCEEDS OF AN INSURANCE POLICY CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY (365:15-10, 36 §3613.1).

NOTICE TO OREGON APPLICANTS: ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY MATERIALLY FALSE, INCOMPLETE, OR MISLEADING INFORMATION MAY BE GUILTY OF A CRIME.

NOTICE TO PENNSYLVANIA APPLICANTS: ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON, FILES A STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT, MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, SUBJECT TO CRIMINAL PROSECUTION AND CIVIL PENALTIES.

NOTICE TO TENNESSEE, VIRGINIA AND WASHINGTON APPLICANTS: IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE COMPANY. PENALTIES INCLUDE IMPRISONMENT, FINES AND DENIAL OF INSURANCE BENEFITS.

NOTICE TO VERMONT APPLICANT: ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR, CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT ACT, WHICH MAY BE A CRIME AND MAY SUBJECT SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

NOTE: A POLICY CANNOT BE ISSUED UNLESS THIS APPLICATION IS PROPERLY SIGNED BY THE CHIEF EXECUTIVE OFFICER OR PRESIDENT AND DATED.

NOTE: THE SPONSOR ORGANIZATION (OR ANY PERSON SIGNING THIS APPLICATION ON BEHALF OF ANY INSURED) ACKNOWLEDGES, IS AWARE AND AGREES THAT THE LIMIT OF LIABILITY CONTAINED IN THE POLICY SHALL BE REDUCED, AND MAY BE COMPLETELY EXHAUSTED, BY COSTS OF DEFENSE AND, TO THE EXTENT THAT THE LIMIT OF LIABILITY OF THE POLICY IS EXCEEDED THE INSURER SHALL NOT BE LIABLE FOR COSTS OF DEFENSE, THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT, AND THAT COSTS OF DEFENSE SHALL BE APPLIED AGAINST THE APPLICABLE RETENTION.

DATE _____ SIGNATURE _____

TITLE _____

NAME OF BROKER _____

NAME OF AGENCY _____

ADDRESS _____

LICENSE NUMBER _____

DATE
SIGNED _____

IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411



EMPLOYMENT PRACTICES INSURANCE POLICY

DECLARATIONS

NOTICE: THIS INSURER IS NOT LICENSED IN THE STATE OF NEW YORK OR CALIFORNIA AND IS NOT SUBJECT TO THEIR SUPERVISION.

THIS IS A CLAIMS-MADE AND REPORTED POLICY. PLEASE READ IT CAREFULLY. AMOUNTS INCURRED AS COSTS OF DEFENSE SHALL REDUCE THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS. AMOUNTS INCURRED FOR COSTS OF DEFENSE SHALL BE APPLIED AGAINST THE RETENTION AMOUNT. THE INSURED HAS THE DUTY TO DEFEND; HOWEVER, THE INSURED MAY TENDER THE DEFENSE TO THE INSURER PURSUANT TO THE TERMS HEREIN.

ITEM 1. CORPORATION NAME AND PRINCIPAL ADDRESS:	ITEM 2. POLICY PERIOD: (a) Inception Date - (b) Expiration Date - at 12:01 a.m. for both dates at the principal address shown in ITEM 1.
ITEM 3. LIMIT OF LIABILITY (inclusive of Costs of Defense): \$_____ (aggregate Limit of Liability for all Employment Practice Claims made or deemed made during the Policy Period).	
ITEM 4. RETENTION : \$_____ (applicable to all Loss , including Costs of Defense)	
ITEM 5. PREMIUM : \$_____	

ITEM 6. FORMS AND ENDORSEMENTS ATTACHED AT ISSUANCE:

ITEM 7. PENDING AND PRIOR DATE: _____

ITEM 8. **INSURER:**

ADDRESS: c/o Ironshore Insurance Services, LLC
1 Exchange Plaza (55 Broadway)
New York, NY 10006

ITEM 9. **BROKER:**

ADDRESS:

The Declarations, the signed and completed **Application** and the Policy, with endorsements will constitute the contract between the **Insured** and the **Insurer** and this Policy is not valid unless signed below by a duly authorized representative of the **Insurer**.

Date:

By: _____
Authorized Representative

Issuing Office:

Issued Date:

IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

EMPLOYMENT PRACTICES INSURANCE POLICY

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the **Insurer** shown in the Declarations, including the statements made in the **Application** for this insurance which are incorporated herein, and subject to all terms, conditions and limitations of this policy (hereinafter "Policy"), the **Insured** and **Insurer** agree:

Section I. INSURING AGREEMENT

- A.** The **Insurer** shall pay on behalf of an **Insured** all **Loss** which an **Insured** shall be legally obligated to pay as a result of an **Employment Practices Claim** first made against an **Insured** during the **Policy Period** (or any applicable Discovery Period) and reported to the **Insurer** pursuant to Section VII.

Section II. COSTS OF DEFENSE AND SETTLEMENTS

- A.** The **Insured** shall not incur **Costs of Defense**, admit liability, offer to settle, or agree to any settlement in connection with any **Employment Practices Claim** without the prior written consent of the **Insurer**, which consent shall not be unreasonably withheld. The **Insured** shall provide the **Insurer** with all information, documents, reports and particulars it may reasonably request in order to reach a decision as to such consent. Any **Loss** resulting from any admission of liability, agreement to settle, or **Costs of Defense** incurred prior to the **Insurer's** written consent shall not be covered under this Policy.
- B.** Notwithstanding Section II.A. above, if all **Insureds** are able to settle all **Employment Practices Claims** that are subject to a single Retention for an amount that, together with the **Costs of Defense**, does not exceed the applicable Retention, the **Insured** may agree to such a settlement without the prior written consent of the **Insurer**.
- C.** The **Insured**, and not the **Insurer**, shall have the duty to defend an **Employment Practices Claim**, and the **Insured** shall only retain

defense counsel as is mutually agreed upon with the **Insurer**. The **Company** may at its option tender the defense of an **Employment Practices Claim** to the **Insurer**. A tender of the defense of an **Employment Practices Claim** shall not be made more than ninety (90) days following the reporting of the **Employment Practices Claim** to the **Insurer** pursuant to Section VII. Upon a tender of the defense of an **Employment Practices Claim**, the **Insurer** shall assume the duty to defend.

- D. The **Insurer** shall at all times have the right to effectively associate with the **Insured** in the investigation, defense and settlement of an **Employment Practices Claim**.
- E. If an **Employment Practices Claim** made against any **Insured** includes both covered and uncovered allegations, damages, defendants, wrongful acts, or fees or expenses, the **Insured** and the **Insurer** agree that there shall be an allocation between covered and uncovered **Loss**. The **Insured** and the **Insurer** shall use their best efforts to agree upon a fair and proper allocation between covered and uncovered **Loss**, taking into account the relative legal and financial exposures, and the relative benefits obtained by each **Insured** as a result of the covered and uncovered matters and/or such benefits to an uninsured party using the same measure. If the **Insured** and the **Insurer** are unable to agree on the amount of the allocation, then the **Insurer** shall pay only those amounts (excess of the Retention amount) which the **Insurer** deems to be fair and equitable until a different amount shall be agreed upon or determined pursuant to the terms of this Policy and the above stated standards.
- F. The **Insurer** shall advance **Costs of Defense** prior to the final disposition of an **Employment Practices Claim**, provided such **Employment Practices Claim** is covered by this Policy. Any advancement shall be on the condition that:
 - (1) if it is established that the **Insurer** has no liability under this Policy for the **Employment Practices Claim**, the **Insured** shall repay the **Insurer** upon demand all **Costs of Defense** advanced;
 - (2) the appropriate Retention has been satisfied; provided, however, this Retention condition shall not apply in the event of the **Financial Insolvency** of the **Company**;

- (3) any amounts advanced by the **Insurer** shall serve to reduce the aggregate Limit of Liability stated in Item 3 of the Declarations until the **Insurer** is in fact repaid; and
- (4) the **Insured** and the **Insurer** have agreed upon the portion of the **Costs of Defense** attributable to a covered **Employment Practices Claim** against any **Insured**; however, if no agreement, the **Insurer** shall pay (excess of the Retention) what it determines to be fair and reasonable until a different allocation is negotiated or is otherwise established.

Section III. DEFINITIONS

- A. "**Application**" shall mean each and every signed application submitted to the **Insurer** for consideration of insurance together with any attachments to such applications, other materials submitted therewith or incorporated therein, and any other documents submitted in connection with the underwriting of this Policy. "**Application**" shall also mean any public documents filed by the **Company** within the past 36 months with any federal, state, local or foreign governmental entity.
- B. "**Claim**" shall mean a civil, criminal, governmental, regulatory, administrative, or arbitration proceeding made against any **Insured** seeking monetary or non-monetary relief and commenced by the service of a complaint or similar pleading, the return of an indictment, or the receipt or the filing of a notice of charges or similar document, including any proceeding initiated against any **Insured** before the U.S. Equal Employment Opportunity Commission ("EEOC"), or any similar governmental body, or other written demand for monetary or non-monetary relief made against any **Insured**. However, in no event shall the term "**Claim**" include any labor or grievance proceeding which is subject to a collective bargaining agreement or any EEOC (or similar governmental body) notice of charge of any kind if made prior to the Inception Date of this Policy (or subsequent lawsuit arising therefrom).
- C. "**Company**" shall mean the **Corporation** and any **Subsidiary**.
- D. "**Corporation**" shall mean the entity named in Item 1 of the Declarations.

- E. **"Costs of Defense"** shall mean reasonable and necessary legal fees, costs and expenses incurred in the investigation, defense or appeal of any **Claim**, including the costs of an appeal bond, attachment bond or similar bond (but the **Insurer** shall not have any obligation to apply for or furnish such bonds); provided, however, **Costs of Defense** shall not include salaries, wages, overhead or benefit expenses associated with any **Insured**.
- F. **"Directors"** and **"Officers"** shall mean all persons who were, now are, or shall be directors and/or officers (or foreign equivalent) of the **Company**.
- G. **"Domestic Partner"** shall mean any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Company**.
- H. **"Employee"** shall mean any past, present or future employee of the **Company**, including any part-time, seasonal or temporary employee, acting solely in his or her capacity as such. Any person leased to the **Company**, any person hired by contract to perform work for the **Company**, or who is an independent contractor for the **Company**, shall also be an **Employee**, but only if the **Company** indemnifies the person in the same manner as is provided to the **Company's** permanent employees.
- I. **"Employment Practices Claim"** shall mean any **Claim** brought by or on behalf of any past, present or future **Employee** of the **Company** or an **Outside Entity**, or any applicant for employment with the **Company** or an **Outside Entity** alleging an **Employment Practices Wrongful Act**. **Employment Practices Claim** shall also mean a **Claim** brought by or on behalf of any customer or client of the **Company** alleging discrimination, sexual harassment or violation of an individual's civil rights relating to such discrimination or sexual harassment.
- J. **"Employment Practices Wrongful Act"** shall mean:
- (1) adverse or unfair reprimand of an **Employee**;
 - (2) denial of interview or position;
 - (3) denial of training to an **Employee**;

- (4) derogatory or disparaging remarks to an **Employee**;
- (5) discrimination;
- (6) employment-related misrepresentations;
- (7) employment-related libel, slander, defamation, or invasion of privacy;
- (8) failure to grant tenure;
- (9) failure to provide an adequate workplace, or employment policy or procedure for **Employees**;
- (10) imposing mandatory arbitration of an **Employment Practices Claim** by an employer;
- (11) improper denial of time off or vacation time to an **Employee**;
- (12) improper disciplinary action of an **Employee**;
- (13) improper performance review of an **Employee**;
- (14) improper transfer, change of position or change of work hours or shift of an **Employee**;
- (15) improper treatment of an **Employee** for their actions as a whistleblower;
- (16) negligent evaluation of an **Employee**;
- (17) negligent release of medical information of an **Employee**;
- (18) **Retaliation** against an **Employee**;
- (19) sexual or workplace harassment of any kind;
- (20) violation of the Equal Pay Act;
- (21) wrongful deprivation of career opportunity of an **Employee**, including defamatory statements made in connection with an **Employee** reference;

(22) wrongful dismissal, discharge or termination of employment, whether actual or constructive, of an **Employee**;

(23) wrongful failure to promote, transfer or employ; and

(24) violation of an **Employee's** civil rights relating to any of the above.

K. "**Financial Insolvency**" shall mean the **Company** becoming a debtor in possession, or the appointment of a receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the **Company**.

L. "**Insured**" shall mean an **Insured Person** and the **Company**.

M. "**Insured Person**" shall mean **Directors, Officers and Employees**, or any **Director, Officer or Employee** arising out of their service as a director, officer, trustee or governor of an **Outside Entity**, but only if such service is at the written request of the **Company**.

N. "**Insurer**" shall mean the company stated in Item 8 of the Declarations.

O. "**Loss**" shall mean compensatory damages (including back pay and front pay), punitive or exemplary damages, the multiple portion of any multiplied damage award, judgments, settlements, pre- and post-judgment interest, and **Costs of Defense**. It is understood and agreed that the enforceability of the foregoing coverage shall be governed by such applicable law which most favors coverage for punitive or exemplary damages or the multiple portion of any multiplied damage award.

Loss shall not include: (1) civil or criminal fines or penalties imposed by law; (2) taxes; (3) any amount for which an **Insured** is not financially liable or which is without legal recourse to the **Insured**; (4) employment-related benefits of any kind, including, but not limited to, stock options, commissions, profit sharing, termination payments, severance, perquisites, deferred compensation or any other type of compensation other than back pay, front pay or bonus compensation; (5) any liability or costs incurred by any **Insured** to modify any buildings or property in order to make a building or

property more accessible or accommodating to any disabled person, or any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy, seminar or monitoring (including, but not limited to, any consulting fees paid to any law firm) relating to or arising out of an **Employment Practices Claim**; or **(6)** matters which may be deemed uninsurable under the law pursuant to which this Policy shall be construed.

- P. **"Management Control"** shall mean: **(1)** owning interests representing more than fifty percent (50%) of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation, the management committee members of a joint venture or partnership, or the members of the management board of a limited liability company; or **(2)** having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of an organization, to elect, appoint or designate a majority of the Board of Directors of a corporation, the management committee of a joint venture or partnership or the management board of a limited liability company.
- Q. **"Outside Entity"** shall mean any not-for-profit entity or any for-profit company but only if such for-profit entity is added by endorsement to this Policy.
- R. **"Policy Period"** shall mean the period from the Inception Date of this Policy to the Expiration Date of this Policy as set forth in Item 2 of the Declarations, or its earlier termination if applicable.
- S. **"Pollutants"** shall mean any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on any list of hazardous substances issued by, the United States Environmental Protection Agency or any state, county, municipality or locality counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products and any noise.
- T. **"Pollution"** shall mean the actual, alleged or threatened discharge, release, escape or disposal of **Pollutants** into or on real or personal property, water or the atmosphere. **Pollution** also means any direction or request that the **Insured** test for, monitor, clean up,

remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so.

- U. **"Related Employment Practices Wrongful Acts"** shall mean **Employment Practices Wrongful Acts** which are the same, related or continuous, or **Employment Practices Wrongful Acts** which arise from a common nucleus of facts. An **Employment Practices Claim** can allege **Related Employment Practices Wrongful Acts** regardless of whether such **Employment Practices Claims** involve the same or different claimants, **Insureds** or legal causes of action.
- V. **"Retaliation"** shall mean an **Employment Practices Wrongful Act** of an **Insured** relating to or alleged to be in response to any of the following activities: **(1)** the disclosure or threat of disclosure by an **Employee** to a superior or to any governmental agency of any act by an **Insured** which act is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder; **(2)** the actual or attempted exercise by an **Employee** of any right that such **Employee** has under law, including rights under worker's compensation laws, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law relating to employee rights; **(3)** the filing of any claim under the Federal False Claims Act or any other federal, state, local or foreign "whistle-blower" law; or **(4)** **Employee** strikes.
- W. **"Subsidiary"** shall mean:
- (1)** any for-profit organization of which the **Company** has **Management Control** ("Controlled Entity") on or before the inception of the **Policy Period** either directly or indirectly through one or more other Controlled Entities;
 - (2)** automatically any for-profit organization whose securities are not publicly traded and whose assets total less than ten percent (10%) of the total consolidated assets of the **Company** as of the inception date of this Policy which the **Company** first had **Management Control** during the **Policy Period**, either directly or indirectly, through one or more other Controlled Entities. The **Corporation** shall provide the **Insurer** with full particulars of the new **Subsidiary** before the end of the **Policy Period**; or
 - (3)** an organization which the **Company** first had **Management Control** of during the **Policy Period** (other than a for-profit

organization described in paragraph (2) above), either directly or indirectly through one or more other Controlled Entities, but only upon the condition that within 90 days of its becoming a **Subsidiary**, the **Corporation** shall have provided the **Insurer** with full particulars of the new **Subsidiary** and agreed to any additional premium or amendment of the provisions of this Policy required by the **Insurer** relating to such new **Subsidiary**. Further, coverage as shall be afforded to the new **Subsidiary** is conditioned upon the **Corporation** paying when due any additional premium required by the **Insurer** relating to such new **Subsidiary**.

- (4) An organization becomes a **Subsidiary** when the **Company** has **Management Control** of such **Subsidiary**, either directly or indirectly, through one or more of its Controlled Entities. An organization ceases to be a **Subsidiary** when the **Company** ceases to have **Management Control** in such **Subsidiary**, either directly, or indirectly through one or more of its Controlled Entities.
- (5) In all events, coverage as is afforded under this Policy with respect to an **Employment Practices Claim** made against any **Subsidiary** and/or any **Insured Person** in their capacity as such with the **Subsidiary** shall only apply to **Employment Practice Wrongful Acts** committed or allegedly committed after the effective time the **Company** obtained **Management Control** of such **Subsidiary**, and prior to the effective time that the **Company** no longer has **Management Control** over such **Subsidiary**.

Section IV. Exclusions

The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Employment Practices Claim** made against any **Insured**:

- A. alleging, arising out of, based upon or attributable to:
 - (1) an **Insured** gaining any profit, advantage or remuneration to which an **Insured** was not legally entitled; provided however, this exclusion shall only apply when it is finally adjudicated that such conduct occurred; or

- (2) the deliberate fraudulent or criminal acts of an **Insured**; provided, however, this exclusion shall only apply when it is finally adjudicated that such conduct occurred;

Provided, however, for purposes of determining the applicability of Exclusions IV.A. (1) and (2) above it is understood and agreed that:

(i) the **Employment Practices Wrongful Act** of an **Insured Person** shall not be imputed to any other **Insured Person**; and

(ii) only the **Employment Practices Wrongful Act** of any past, present or future chairman of the board, president, chief executive officer, or chief financial officer of the **Company** shall be imputed to the **Company**.

- B. alleging, arising out of, based upon or attributable to any **Employment Practices Wrongful Act, Related Employment Practices Wrongful Acts** or any fact, circumstance or situation which has been the subject of any notice or **Employment Practices Claim** given under any other policy of which this Policy is a renewal or replacement;
- C. alleging, arising out of, based upon or attributable to any pending or prior civil, criminal, administrative or investigative proceeding, or EEOC notice of charge of any kind involving the **Company** and/or any **Insured Person** as of the Pending and Prior Date stated in Item 7 of the Declarations, or any **Employment Practices Wrongful Act** or **Related Employment Practices Wrongful Acts** or any fact, circumstance or situation underlying or alleged in such proceeding or notice of charge;
- D. for any actual or alleged:
- (1) bodily injury, sickness, disease, or death of any person; or
- (2) damage to or destruction of any tangible property, including the loss of use thereof.
- E. for violation of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the

Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, and any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar federal, state, local or foreign statutory law or common law; provided, however, this exclusion shall not apply to an **Employment Practices Claim** for **Retaliation** or an alleged violation of the Equal Pay Act;

- F. for any **Claim** alleging, arising out of, based upon, or attributable to the refusal, failure or inability of any **Insured** to pay wages or overtime pay for services rendered (hereinafter, "Earned Wages") (as opposed to tort-based back pay or front pay damages) or for improper payroll deductions taken by any **Insured** from any **Employee** or purported **Employee**, including, but not limited to, (i) any unfair business practice claim alleged because of the failure to pay Earned Wages, or (ii) any **Claim** seeking Earned Wages because any **Employee** or purported **Employee** was improperly classified or mislabeled as "exempt";
- G. alleging, arising out of, based upon or attributable to an **Employment Practices Wrongful Act** of any **Insured Person** serving as a director, officer, trustee or governor of any entity other than the **Company** or an **Outside Entity**, even if such service is at the direction of the **Company**, unless otherwise specifically added by written endorsement to this Policy;
- H. which is brought by or on behalf of the **Company**, or any **Officer** or **Employee** who is or was a member of the Board of Directors (or equivalent governing body) of the **Company**;
- I. alleging, arising out of, based upon or attributable to, directly or indirectly resulting from, or in consequence of, or in any way involving, **Pollution**, including but not limited to, any **Claim** for alleged financial loss to the **Company**, its security holders or its creditors;
- J. for any **Employment Practices Wrongful Act** of a **Subsidiary** or an **Insured Person** of such **Subsidiary** or any entity that merges with the **Company** or an **Insured Person** of such entity that merges with the **Company** occurring:
 - (1) prior to the date such entity becomes a **Subsidiary** or is merged with the **Company**;

- (2) subsequent to the date such entity became a **Subsidiary** or was merged with the **Company** which, together with an **Employment Practices Wrongful Act** occurring prior to the date such entity became a **Subsidiary** or was merged with the **Company**, would constitute **Related Employment Practices Wrongful Acts**; or
 - (3) subsequent to the date the **Company** ceased to have, directly or indirectly, **Management Control** of such **Subsidiary**;
- K. alleging, arising out of, based upon or attributable to any actual or alleged contractual liability or obligation of the **Company** or an **Insured Person** under any contract, agreement, employment contract or employment agreement to pay money, wages or any employee benefits of any kind. This exclusion shall not apply to an **Employment Practice Claim** to the extent liability does not arise under such contract or agreement; and,
- L. alleging, arising out of, based upon or attributable to, directly or indirectly resulting from, or in consequence of, or in any way involving, any obligation pursuant to any worker's compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law.

Section V. Limit of Liability

- A. The **Insurer** shall be liable to pay **Loss** in excess of the applicable Retention amount stated in Item 4 of the Declarations up to the Limit of Liability stated in Item 3 of the Declarations.
- B. **Costs of Defense** shall be part of, and not in addition to, the Limit of Liability stated in Item 3 of the Declarations. Such **Costs of Defense** shall serve to reduce the Limit of Liability.
- C. The liability of the **Insurer** for all **Loss** arising from any and all **Claims** first made and reported pursuant to Section VII of the Policy shall be the amount stated in Item 3 of the Declarations which shall be the aggregate Limit of Liability of the **Insurer** for the **Policy Period** and Discovery Period, if applicable, regardless of the time of payment or the number of **Claims**.

Section VI. Retention

- A. One Retention shall apply to **Loss** arising from each **Employment Practices Claim** alleging the same **Employment Practices Wrongful Act** or **Related Employment Practices Wrongful Acts**. The **Company** shall be responsible for, and shall hold the **Insurer** harmless from, any amount within the Retention.
- B. More than one **Employment Practices Claim** involving the same **Employment Practices Wrongful Act** or **Related Employment Practices Wrongful Acts** of one or more **Insureds** shall be considered a single **Claim**, and only one Retention shall be applicable to such single **Claim**. All such **Claims** constituting a single **Claim** shall be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such **Claim** was first made; or (2) the earliest date on which any such **Employment Practices Wrongful Act** or **Related Employment Practices Wrongful Acts** were reported under this Policy or any other policy providing similar coverage.

Section VII. Notice of Claim

- A. The **Insured** shall, as a condition precedent to their rights under this Policy, give the **Insurer** notice in writing of any **Claim** which is made during the **Policy Period** or Discovery period. Such notice shall be given as soon as practicable but in no event later than thirty (30) days after the end of the **Policy Period** or Discovery Period, if applicable. If notice is provided pursuant to this Section, any **Claim** subsequently made against an **Insured** and reported to the **Insurer** alleging, arising out of, based upon or attributable to the prior noticed **Claim** or alleging any **Related Employment Practices Wrongful Acts**, shall be considered related to the prior **Claim** and made at the time notice of the prior **Claim** was first provided.
- B. If during the **Policy Period** or during the Discovery Period the **Company** or an **Insured** shall become aware of any circumstances which may reasonably be expected to give rise to an **Employment Practices Claim** being made against an **Insured** and shall give written notice to the **Insurer** of the circumstances, the **Employment Practices Wrongful Act** allegations anticipated and the reasons for anticipating such a **Claim**, with full particulars as to dates, persons and entities involved, then a **Claim** which is subsequently made against such **Insured** and reported to the **Insurer** alleging, arising out of, based upon or attributable to such circumstances or alleging any **Related Employment Practices Wrongful Acts**, shall be considered made at the time notice of such circumstances was

given. Notice of any such subsequent **Employment Practices Claim** shall be given to the **Insurer** as soon as practicable.

- C. In addition to furnishing the notice as provided in Section VII, the **Insured** shall, as soon as practicable, furnish the **Insurer** with copies of reports, investigations, pleadings and other papers in connection therewith.
- D. Notice to the **Insurer** as provided in Section VII shall be given to the **Insurer** identified in, and at the address set forth in, Item 8 of the Declarations.

Section VIII. Discovery Period

- A. In the event the **Insurer** or the **Corporation** refuses to renew this Policy, the **Corporation** shall have the right, upon payment of one hundred percent (100%) of the annual premium, (or if the **Policy Period** is other than annual, one hundred percent (100%) of the annualized premium), to an extension of the coverage provided by this Policy with respect to any **Claim** first made against any **Insured** during the period of twelve (12) months after the end of the **Policy Period** and reported to the **Insurer** pursuant to the provisions of this Policy, but only with respect to an **Employment Practices Wrongful Act** committed or alleged to have been committed before the end of the **Policy Period**. This twelve (12) month period shall be referred to in this Policy as the Discovery Period.
- B. As a condition precedent to the right to purchase the Discovery Period, the total premium for this Policy must have been paid and a written request, together with payment of the appropriate premium for the Discovery Period, must be provided to the **Insurer** no later than thirty (30) days after the end of the **Policy Period**.
- C. The fact that the coverage provided by this Policy may be extended by virtue of the purchase of the Discovery Period shall not in any way increase the Limit of Liability stated in Item 3 of the Declarations. For purposes of the Limit of Liability, the Discovery Period is considered to be part of, and not in addition to, the **Policy Period**.

Section IX. General Conditions

- A. Cancellation or Non-Renewal

- (1) This Policy may be cancelled by the **Corporation** at any time by written notice to the **Insurer**. Upon cancellation by the **Corporation**, the **Insurer** shall retain the customary short rate portion of the premium, unless this Policy is converted to Run-Off pursuant to Section IX.D. wherein the entire premium for this Policy shall be deemed earned.
- (2) This Policy may only be cancelled by the **Insurer** if the **Corporation** does not pay the premium when due.
- (3) If the **Insurer** elects not to renew this Policy, the **Insurer** shall provide the **Corporation** with no less than sixty (60) days advance notice thereof.

B. Application

It is agreed by the **Company** and the **Directors** and **Officers** that the particulars and statements contained in the **Application** and any information provided therewith (which shall be on file with the **Insurer** and be deemed attached hereto as if physically attached hereto) are the basis of this Policy and are to be considered as incorporated in and constituting a part of this Policy. It is further agreed by the **Company** and the **Directors** and **Officers** that the statements in the **Application** or in any information provided therewith are their representations, that they are material and that this Policy is issued in reliance upon the truth of such representations. Knowledge of any **Insured Person** of a misstatement or omission in the **Application** shall not be imputed to any other **Insured Person** for purposes of determining the validity of this Policy as to such other **Insured Person**.

C. Action Against the Insurer

- (1) No action shall be taken against the **Insurer** unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, and until the obligation of the **Insured** to pay shall have been finally determined by an adjudication against the **Insured** or by written agreement of the **Insured**, claimant and the **Insurer**.
- (2) No person or organization shall have any right under this Policy to join the **Insurer** as a party to any **Claim** against an **Insured** nor shall the **Insurer** be impleaded by any **Insured** or their legal representative in any such **Claim**.

D. Conversion to Run-Off Coverage

If, during the **Policy Period**, a transaction occurs wherein another entity gains control of the **Corporation** through the ownership of more than fifty percent (50%) of the voting stock of the **Corporation**, or the **Corporation** merges into another entity or consolidates with another entity such that the **Corporation** is not the surviving entity, then:

- (1) this Policy shall only apply to an **Employment Practices Wrongful Act** actually or allegedly committed on or before the effective date of such transaction; and
- (2) the entire premium for this Policy shall be deemed earned as of the date of such transaction.

E. Outside Entity Provision

In the event an **Employment Practices Claim** is made against an **Insured Person** arising out of their service as a director, officer, trustee or governor of an **Outside Entity**, coverage as may be afforded under this Policy shall be excess of any indemnification provided by the **Outside Entity** and any insurance provided to the **Outside Entity** which covers its directors, officers, trustees or governors.

F. Coverage Extensions

(1) Lawful Spouse or Domestic Partner Provision

The coverage provided by this Policy shall also apply to the lawful spouse or **Domestic Partner** of an **Insured Person**, but only for an **Employment Practices Claim** arising out of any actual or alleged **Employment Practices Wrongful Act** of such **Insured Person**.

(2) Worldwide Provision

The coverage provided under this Policy shall apply worldwide. The term **Directors** and **Officers** is deemed to include individuals who serve in equivalent positions in foreign **Subsidiaries**.

(3) Estates and Legal Representatives

- a. The coverage provided by this Policy shall also apply to the estates, heirs, legal representatives or assigns of any **Insured Person** in the event of their death, incapacity or bankruptcy, but only for an **Employment Practices Claim** arising out of any actual or alleged **Employment Practices Wrongful Act** of such **Insured Person**.
- b. In the event a bankruptcy proceeding shall be instituted by or against the **Company**, the resulting debtor-in-possession (or equivalent status outside the United States of America) shall be deemed to be the **Company**.

G. Priority of Payments

- (1) In the event of **Financial Insolvency**, or the refusal of the **Corporation** to indemnify or advance the indemnification of an **Insured Person** and there is **Loss** arising from one or more covered **Employment Practices Claim** for which payment is due under this Policy, the **Insurer** shall:
 - a. first pay such **Loss** for which coverage is provided under this Policy to an **Insured Person**; then
 - b. with respect to whatever remaining amount of the Limit of Liability is available after payment pursuant to Section G.(1)(a) above, pay such **Loss** for which coverage is provided under this Policy to the **Company**.

H. Subrogation

In the event of any payment under this Policy, the **Insurer** shall be subrogated to all of the **Insureds'** rights of recovery and the **Company** and **Insured Persons** shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents as may be necessary to enable the **Insurer** to effectively bring suit in the name of any **Insured Person** or the **Company**.

I. Dispute Resolution

In the event any dispute arises in connection with this Policy that cannot be resolved, the **Insurer** and the **Insured** shall participate in a non-binding mediation in which the **Insurer** and the **Insured** shall attempt in good faith to resolve such dispute. Either the **Insured** or the **Insurer** shall have the right to commence a judicial proceeding or, if the parties agree, a binding arbitration, to resolve such dispute. However, no judicial proceeding or arbitration shall be commenced until termination of the mediation and until at least 90 days has passed from the termination of the mediation. Each party will bear its own legal fees and expenses. The costs and expenses of a mediation, or an arbitration, shall be split equally by the parties.

J. Assignment

Assignment of interest under this Policy shall not bind the **Insurer** until its consent is endorsed hereon.

K. Conformity to Statute

Any terms of this Policy which are in conflict with the terms of any applicable laws are hereby amended to conform to such laws.

L. Entire Agreement

By acceptance of this Policy, all **Insureds** and the **Insurer** agree that this Policy (including the Declarations, **Application** submitted to the **Insurer** and any information provided therewith) and any written endorsements attached hereto constitute the entire agreement between the parties. The terms, conditions and limitations of this Policy can be waived or changed only by written endorsement.

M. Corporation Represents Insured

By acceptance of this Policy, the **Corporation** shall be designated to act on behalf of all **Insureds** for all purposes including, but not limited to, the giving and receiving of all notices and correspondence, the cancellation or non-renewal of this Policy, the payment of premiums, and the receipt of any return premiums that may be due under this Policy.

N. Representative of the Insurer

Ironshore Insurance Services, LLC, 1 Exchange Plaza (55 Broadway), New York, NY 10006 shall act on behalf of the **Insurer** for all purposes

including, but not limited to, the giving and receiving of all notices and correspondence, provided, however, notice of an **Employment Practices Claim** shall be given pursuant to Section VII of this Policy.

O. Service of Suit

In the event of the failure of the **Insurer** to pay any amount claimed to be due hereunder, the **Insurer** at the request of the **Insured**, will submit to the jurisdiction of any court of competent jurisdiction within the United States. Nothing in this condition constitutes or shall be understood to constitute a waiver of the right of the **Insurer** to commence an action in any court of competent jurisdiction within the United States, to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States.

Service of process in any such suit may be made upon Ironshore Insurance Services, LLC, 1 Exchange Plaza (55 Broadway), New York, NY 10006. In any suit instituted against the **Insurer** upon this Policy the **Insurer** will abide by the final decision of such court or of any appellate court in the event of any appeal.

Pursuant to any statute of any state, territory or district of the United States which makes provision therefore, the **Insurer** hereby designates the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, or his or her successor or successors in office, as its true and lawful attorney upon whom may be served lawful process in any action, suit or proceeding instituted by or on behalf of the **Insured** or any beneficiary hereunder arising out of this Policy, and hereby designates the above named Ironshore Insurance Services, LLC, 1 Exchange Plaza (55 Broadway), New York, NY 10006 as the entity to whom said officer is authorized to mail such process or a true copy thereof.

P. Other Insurance

All **Loss** payable under this Policy shall be specifically excess of and will not contribute with any other valid insurance (whether collectible or not), including, but not limited to, any other insurance under which there is a duty to defend, unless such other insurance is specifically stated to be and was underwritten as excess insurance to this particular Policy. This Policy will not be subject to the terms of any other insurance.

Q. Bankruptcy

Bankruptcy or insolvency of the **Company** or any **Insured Person** shall not relieve the **Insurer** of any of its obligations under this Policy.

R. Headings

The descriptions in the headings of this Policy form no part of the terms and conditions of the coverage under this Policy.



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT

Policy Number:
Endorsements:

Effective Date of

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

3rd PARTY SEPARATE RETENTION

In consideration of the premium charged, it is hereby understood and agreed that Item 4. of the Declarations is deleted in its entirety and replaced with the following:

ITEM 4.RETENTION:

A. Judgments, Settlements and None
Costs of Defense (Loss incurred solely by
A **Company** in financial insolvency or bankruptcy)

1.
B. **CUSTOMER OR CLIENT DISCRIMINATION
CLAIM:**

Judgments, Settlements and
Costs of Defense

\$ _____
for **Loss** arising from a
Claim alleging the same
**Employment Practices
Wrongful Act or Related
Employment Practices
Wrongful Acts**

C. ANY OTHER **EMPLOYMENT PRACTICES CLAIM:**

Judgments, Settlements
and **Costs of Defense**

\$ _____
for **Loss** arising from **Claim**
alleging the same
**Employment Practices
Wrongful Act or Related
Employment Practices
Wrongful Acts**

It is further understood and agreed that Section VI, Retention, is amended by deleting paragraph A. in its entirety and replacing it with the following:

- A. The **Insurer** shall only be liable for the amount of **Loss** arising from an **Employment Practices Claim** which is in excess of the Retention amount stated in Item 4 of the Declarations. Such Retention amount to be borne by the **Company** and shall remain uninsured, with regard to all **Loss** for which the **Company** has indemnified or is permitted or required to indemnify an **Insured Person** ("Indemnifiable Loss"). A single Retention shall apply to **Loss** arising from any **Employment Practices Claim** alleging the same **Employment Practices Wrongful Act** or **Related Employment Practices Wrongful Acts**. In the event an **Employment Practices Claim** triggers more than one (1) amount stated in Item 4 of the Declarations, only the highest such Retention shall apply, which amount shall apply to all **Loss** under such **Employment Practices Claim**.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date

IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) 476-6411



ENDORSEMENT #:

Policy Number:

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ CAREFULLY

ARKANSAS AMENDED NOTICE PROVISION

In consideration of the premium charged, it is hereby understood and agreed that Section VII.A, Notice of Claim, is deleted in its entirety and replace with the following:

- A. The **Insured** shall, as a condition precedent to their rights under this Policy, give the **Insurer** notice in writing of any **Employment Practices Claim** which is made during the **Policy Period**. Such notice shall be given as soon as practicable after the chief executive officer, chief financial officer, risk manager or general counsel become aware of such **Employment Practices Claim** but in no event later than sixty (60) days after the end of the **Policy Period** or Discovery Period, if applicable. If notice is provided pursuant to this Section, any **Employment Practices Claim** subsequently made against an **Insured** and reported to the **Insurer** alleging, arising out of, based upon or attributable to the prior noticed **Employment Practices Claim** or alleging any **Related Employment Practices Wrongful Acts**, shall be considered related to the prior **Employment Practices Claim** and made at the time notice of the prior **Employment Practices Claim** was first provided.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

AUTHORIZED REPRESENTATIVE

DATE



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

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Endorsements:

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BANKRUPTCY/INSOLVENCY/CREDITORS EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured**:

- (1) alleging, arising out of, based upon or attributable to:
 - (i) any **Employment Practices Wrongful Act** which is alleged to have led to or caused, directly or indirectly, wholly or in part, the bankruptcy or insolvency of the **Company**, or to the **Company** filing a petition, or a petition being filed against the **Company**, pursuant to the federal Bankruptcy Code or any similar state law, or the **Company** assigning its assets for the benefit of its creditors; or
 - (ii) the **Company** having sustained a financial loss due, directly or indirectly, wholly or in part, to an **Employment Practices Wrongful Act** of the **Insured**, but only if such **Claim** is made after the **Company** has been determined to be insolvent, or has filed a petition for bankruptcy, or a petition has been filed against it, or the **Company** has assigned its assets for the benefit of its creditors; or
- (2) brought by or on behalf of any creditor or debt-holder of the **Company**, or arising out of any liability (whether alleged or actual) to pay or collect accounts, including but not limited to any **Claim** alleging misrepresentation in connection with the extension of credit or purchase of debt instrument, or any **Claim** alleging any deterioration in the value of the debt as a result of (wholly or in part) the bankruptcy or insolvency of the **Company**.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT

Policy Number:

Effective Date of Endorsements:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COINSURANCE ENDORSEMENT

In consideration of the premium charged, it is hereby understood and agreed that the following Section is added to this Policy:

COINSURANCE CLAUSE

With respect to: (1) **Loss** for which the **Company** has indemnified or is permitted or required to indemnify any **Insured Person** ("Indemnifiable Loss"); and/or (2) **Loss** of the **Company**, the **Insurer** shall be liable to pay _____% of **Loss** excess of the applicable Retention amount described in the Declarations up to the Limit of Liability described in Item 4, it being a condition precedent of this insurance that the remaining _____% of each and every **Loss** shall be paid by the **Company** and the **Insured Person** at their own risk and be uninsured.

With respect to all **Loss** for which the **Company** has neither indemnified nor is permitted or required to indemnify the **Insured Person** ("Non-Indemnifiable Loss"), the **Insurer** shall be liable to pay 100% of such **Loss**, excess of the Retention amount described in Item 4 of the Declarations up to the Limit of Liability described in Item 3 of the Declarations.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT #

Policy Number:

Effective Date of Endorsements:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COPYRIGHT/PATENT/INTELLECTUAL PROPERTY RIGHTS EXCLUSION

It is further understood and agreed that Section IV, Exclusions, is amended to include the following:

The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured** alleging, arising out of, based upon or attributable to plagiarism, misappropriation, infringement or violation of copyright, patent, trademark, trade secret, title or slogan, or intellectual property rights.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FAMILY EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the **Insurer** shall not be liable for any **Loss** in connection with any **Claim** made against any **Insured**, brought by:

- (1) _____; or
- (2) any other member of the _____ family, if such member owns or controls, whether directly, indirectly, beneficially or derivatively, any securities of the **Company**; or
- (3) which are brought by any security holder of the **Company**, whether directly or derivatively, unless such **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, any family member described in subparagraph (1) or (2) above.

For purposes of this endorsement, the "family" of an individual shall mean his/her spouse, parents, children, grandchildren, brothers, sisters, mother-in-law, father-in-law, brother-in-law, sister-in-law, as well as step children and step relatives or, and any other ancestor, lineal descendant or descendant of a common ancestor of the individual and his or her spouse.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT #

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Effective Date of

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INTELLECTUAL PROPERTY EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that Section IV Exclusions, of the Policy is amended to include the following:

This Policy does not apply to any **Claim:**

alleging, arising out of, based upon or attributable to any misappropriation of trade secret or infringement of patent, copyright, trademark, trade dress or any other intellectual property right.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT #

Policy Number:

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIOR ACT EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Employment Practices Claim** alleging, arising out of, based upon or attributable to any **Employment Practices Wrongful Act** prior to _____. **Loss** arising out of the same **Employment Practices Wrongful Act** or **Related Employment Practices Wrongful Acts** shall be deemed to arise from the first such same **Employment Practices Wrongful Act**.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date

IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) 476-6411

**ENDORSEMENT #:**

Policy Number:

Effective Date of Endorsement:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ CAREFULLY

**ARKANSAS EMPLOYEE BENEFIT PLAN FIDUCIARY INSURANCE COMBO
ENDORSEMENT
(SEPARATE LIMIT)**

In consideration of the premium charged, and in reliance upon the statements in the application made a part hereof, it is hereby understood and agreed that this policy shall provide EMPLOYEE BENEFIT PLAN FIDUCIARY INSURANCE coverage pursuant to the terms and conditions contained in this endorsement.

ENDORSEMENT DECLARATIONS

ITEM 1. SPONSOR ORGANIZATION NAME AND PRINCIPAL ADDRESS:	ITEM 2. POLICY PERIOD: (a) Inception Date - (b) Expiration Date - at 12:01 a.m. for both dates at the principal address shown in ITEM 1.
ITEM 3. LIMIT OF LIABILITY (inclusive of Costs of Defense): \$_____ (aggregate Limit of Liability for all Claims made or deemed made during the Policy Period).	
ITEM 4. RETENTION: \$_____ (applicable to Indemnifiable Loss , including payment of Costs of Defense)	
ITEM 5. PENDING AND PRIOR DATE: _____	

I.

The aggregate Limit of Liability stated in Item 3 of the Endorsement Declarations is for all **Loss** combined provided by this endorsement (including **Costs of Defense**) for EMPLOYEE BENEFIT PLAN FIDUCIARY INSURANCE and is NOT PART OF AND IS IN ADDITION TO the aggregate Limit of Liability stated in Item 3 of the Declarations which is for Coverage A, B and C (including **Costs of Defense**).

II.

All the terms and conditions of form EPL 2007 POL (8/07 Ed.) are hereby incorporated herein and shall apply to coverage as is afforded by this endorsement unless specifically stated otherwise herein or in an endorsement(s) attached hereto. Any endorsement(s) attached hereto shall apply only to form EPL 2007 POL (8/07 Ed.) unless specifically stated otherwise.

III.

Solely with regard to the coverage afforded by this endorsement, **Section I. INSURING AGREEMENT** is deleted in its entirety and replaced with the following:

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the **Insurer** shown in the Declarations, including the statements made in the application for this insurance which are incorporated herein, and subject to all terms, conditions and limitations of this policy (hereinafter, "Policy"), the **Insured** and **Insurer** agree:

SECTION I. INSURING AGREEMENT

The **Insurer** shall pay on behalf of the **Insured** all **Loss** which the **Insured** shall become legally obligated to pay as a result of a **Claim** first made anywhere in the world against any **Insured** during the **Policy Period** (or any applicable Discovery Period) and reported to the **Insurer** pursuant to Section VII for a **Wrongful Act** by a **Fiduciary, Administrator** and/or **Sponsor Organization** of a **Covered Plan** or by any person for whose **Wrongful Act** the **Sponsor Organization** is legally responsible.

IV.

Solely with respect to the coverage afforded by this endorsement, **Section II** through **Section VI** are hereby deleted in their entirety and replaced with the following:

SECTION II. DEFENSE AGREEMENT

A. INSURER'S DUTY TO DEFEND

Except as hereafter stated, the **Insurer** shall have both the right and duty to defend any **Claim** against an **Insured** alleging a **Wrongful Act** by a **Fiduciary**,

Administrator and/or **Sponsor Organization** of a **Covered Plan** (even if such **Claim** is groundless, false or fraudulent) and the **Insurer** shall have the right to select defense counsel.

The **Insured** shall have the right to effectively associate with the **Insurer** in the defense of any **Claim**, including, but not limited to, negotiating a settlement. The **Insurer** shall not, however, be obligated to defend any **Claim** after the Limit of Liability has been exhausted.

B. INSURED'S OPTION TO ASSUME THE DEFENSE

Notwithstanding the above, the **Insured** shall have the right to assume the defense of any **Claim** made against them. This right shall be exercised in writing by the **Sponsor Organization** on behalf of all **Insureds** within sixty (60) days of the reporting of the **Claim** to the **Insurer** pursuant to Section VII of this Policy. Upon receipt of such written request from the **Insured**, the **Insurer** shall tender the defense of the **Claim** to the **Insureds**. The **Insurer** shall have the right to effectively associate with the **Insureds** in the defense of any **Claim**, including but not limited to negotiating a settlement. Provided that the **Insurer** shall be permitted to effectively associate with the **Insureds** in the defense of any **Claim** (including, but not limited to, negotiating a settlement of any **Claim**), the **Insurer's** consent to a settlement, stipulated judgment or **Costs of Defense** shall not be unreasonably withheld.

In the event the **Insured** assumes the defense of the **Claim**, the **Insurer** shall advance **Costs of Defense** pursuant to Section II. C immediately below.

C. ALLOCATION

1. If a **Claim**, judgment or settlement results in **Loss** covered under this Policy and loss not covered under this Policy because a **Claim**, judgment or settlement includes both covered and uncovered allegations, damages, defendants, wrongful acts or fees or expenses, the **Insured** and the **Insurer** agree that the **Insurer** shall have the right to allocate for such uncovered loss. If there is no agreement between the **Insurer** and the **Insured** on the amount of **Costs of Defense** to be advanced for the **Claim**, the **Insurer** shall advance **Costs of Defense** that it reasonably believes are covered under this Policy until a different allocation is negotiated or determined.
2. Any negotiated or determined allocation of **Costs of Defense** in connection with a **Claim** shall be applied retroactively, notwithstanding any allocation applied with respect to any prior advancement of **Costs of Defense**. Any allocation or advancement of **Costs of Defense** in connection with a **Claim** shall not apply to or create any presumption as to allocation of indemnity **Loss**.

D. GENERAL PROVISIONS (applicable to A., B. and C. above)

The **Insureds** shall not incur **Costs of Defense**, admit liability, offer to settle, or agree to any settlement in connection with any **Claim** without the prior written consent of the **Insurer**, which consent shall not be unreasonably withheld. The **Insurer** shall have the right to make investigations and conduct negotiations and, with the consent of the **Insured**, enter into such settlement of any **Claim** as the **Insurer** deems appropriate.

If all **Insureds** are able to settle all **Claims** that are subject to a single Retention for an amount that, together with the **Costs of Defense**, does not exceed the Retention, the **Insured** may agree to such a settlement without the prior written consent of the **Insurer**.

The **Insurer** shall have no obligation to pay **Loss**, including **Costs of Defense**, or to defend or continue to defend any **Claim** after the **Insurer's** aggregate Limit of Liability (as set forth in Item 3 of the Declarations) has been exhausted by the payment of **Loss**, including **Costs of Defense**. If the **Insurer's** aggregate Limit of Liability (as set forth in Item 3 of the Declarations) is exhausted by the payment of **Loss**, including **Costs of Defense**, the entire premium (as stated in Item 5 of the Declarations and any endorsement) will be deemed fully earned.

E. COOPERATION

In the event of a **Claim**, the **Insured** shall provide the **Insurer** with all information, documents, assistance, and cooperation that the **Insurer** reasonably requests. At the **Insurer's** request, the **Insured** shall provide full cooperation and assist in any actions, suits, or proceedings, including, but not limited to, attending hearings, trials and depositions, securing and giving evidence, obtaining the attendance of witnesses, and assisting in making settlements.

SECTION III. DEFINITIONS

A. "Administration" shall mean:

1. giving advice, counsel or notice to **Employees**, participants, or beneficiaries of a **Covered Plan**;
2. maintaining records of a **Covered Plan**; or
3. activities affecting enrollment, termination, or cancellation of **Employees**, participants or beneficiaries of a **Covered Plan**.

B. "Administrator" shall mean an **Insured** with respect to any **Wrongful Act** described in Section III.Y.2.

- C. **“Benefits”** shall mean any obligation under a **Covered Plan** to **Employees**, participants or beneficiaries under a **Covered Plan** which is a payment of money or property, or the grant of a privilege, right, option or perquisite.
- D. **“Breach of Fiduciary Duty”** shall mean a violation of the responsibilities, obligations or duties imposed upon an **Insured** by **ERISA**.
- E. **“Claim”** shall mean:
1. any written demand for monetary, non-monetary or injunctive relief;
 2. any written request to toll or waive any statute of limitations;
 3. any civil proceeding in a court of law or equity or an arbitration proceeding, including any appeal therefrom, which is commenced by the filing of a complaint, motion for judgment or similar pleading and/or any criminal proceeding which is commenced by the return of an indictment or similar document; or
 4. any administrative or regulatory proceeding or investigation, including an investigation brought by the U.S. Department of Labor, the Pension Benefit Guaranty Corporation or any similar governmental agency commenced by the filing of a notice of charges, a formal notice of investigation or similar document.
- F. **“Covered Plan”** shall mean:
1. any “employee pension benefit plan” or “employee welfare benefit plan” (as each is defined in **ERISA**) except for the kinds of plans listed in the parenthetical in F.3 below, located anywhere in the world which is operated solely by the **Sponsor Organization** solely for the **Employees** of the **Sponsor Organization** and which existed on or before the Inception Date stated in Item 2 of the Declarations, or which is created or acquired after the Inception Date; provided that any coverage with respect to such plan created or acquired during the **Policy Period** shall apply only for **Wrongful Acts** committed, attempted or allegedly committed or attempted after the effective date of such creation or acquisition and shall be subject to Section III.X.3;
 2. any cafeteria plan, as defined in Section 125 of the Internal Revenue Code of 1986 (as amended), from which the participants may choose among two or more benefits consisting of cash and qualified benefits, or any dependent care assistance program, (as defined in Section 129 of the Internal Revenue Code of 1986 (as amended)), sponsored solely by the **Sponsor Organization** for the **Employees** of the **Sponsor Organization** and/or their beneficiaries;

3. any other employee benefit plan or program added to this Policy by specific written endorsement (including an employee stock ownership plan (**ESOP**), multiple employer welfare arrangement (**MEWA**), a voluntary employees beneficiary association (**VEBA**), or a **Non-Qualified Plan**) which is sponsored solely by the **Sponsor Organization** for **Employees** of the **Sponsor Organization**; and
4. the following government-mandated programs: unemployment insurance, Social Security or disability benefits but solely with respect to a **Wrongful Act** defined in Section III.Y.2 of this Policy and solely with respect to **Employees** of the **Sponsor Organization**.

Covered Plan shall not include any “multiemployer plan” (as defined by **ERISA**).

- G. “**Costs of Defense**” shall mean reasonable and necessary legal fees, costs and expenses incurred in the investigation, defense or appeal of any **Claim**, including the costs of an appeal bond, attachment bond or similar bond (but without obligation on the part of the **Insurer** to apply for or furnish such bonds); provided, however, **Costs of Defense** shall not include salaries, wages, overhead or benefit expenses associated with any **Insured**. If an **Insured** has elected to assume the defense pursuant to Section II.B, **Costs of Defense** shall only be reimbursable when the **Insurer** has consented in advance and in writing to the incurring of such reasonable and necessary legal fees, costs and expenses, such consent to not be unreasonably withheld.
- H. “**Domestic Partner**” shall mean any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Sponsor Organization**.
- I. “**Employees**” shall mean any natural person whose labor or service is engaged by and directed by the **Sponsor Organization**. Employee shall not include any independent contractor or outside service provider.
- J. “**ERISA**” shall mean the Employee Retirement Income Security Act of 1974 (as amended) (including, but not limited to, amendments to **ERISA** contained in the Consolidated Omnibus Budget Reconciliation Act of 1985; the Health Insurance Portability and Accountability Act of 1996; the Newborns’ and Mothers’ Health Protection Act of 1996; the Mental Health Parity Act of 1996; or, the Women’s Health and Cancer Rights Act of 1998), and including any rules or regulations under **ERISA** and any similar common or statutory law of any other jurisdiction anywhere in the world to which a **Covered Plan** is subject.

- K. **“ESOP”** shall mean an “employee stock ownership plan” (as defined in **ERISA**), or any other **Covered Plan** under which investments are made primarily in securities of the **Sponsor Organization** or whose assets at any time within twelve months prior to the inception date of this Policy were comprised of twenty percent (20%) or more of securities of the **Sponsor Organization**.
- L. **“Fiduciary”** shall mean a fiduciary as defined in **ERISA** and any rules or regulations under **ERISA** with respect to a **Covered Plan** or a person or entity who exercises discretionary control in the management of a **Covered Plan** or the disposition of its assets.
- M. **“Indemnifiable Loss”** shall mean **Loss** for which the **Sponsor Organization** has indemnified or is permitted or required to indemnify any **Insured Person**.
- N. **“Insured”** shall mean the **Sponsor Organization**, any **Covered Plan**, any **Insured Person**, or any other person or entity added to this Policy by specific, written endorsement.
- O. **“Insured Person”** shall mean any past, present or future natural person director, officer, general partner, governor, management committee member, member of the board of managers or **Employees** of a **Sponsor Organization** or, if applicable, of a **Covered Plan**, and as to all of the above solely in his or her capacity as a **Fiduciary** or **Administrator** of a **Covered Plan**.
- P. **“Insurer”** shall mean the company stated in Item 8 of the Declarations.
- Q. **“Loss”** shall mean damages, judgments (including pre-judgment interest and post-judgment interest on that portion of a covered judgment), settlements and **Costs of Defense**; however, **Loss** shall not include: (1) civil or criminal fines or penalties imposed by law, except (i) the administrative assessment of a five percent (5%) or less civil penalty permitted under Section 502(i) of **ERISA** and (ii) the civil penalties of twenty percent (20%) or less for violations by a fiduciary, permitted under Section 502(l) of **ERISA**, with respect to covered settlements or judgments; (2) the return or reversion to any employer of any contribution or asset of a **Covered Plan**; (3) the multiplied portion of multiplied damages; (4) taxes or tax penalties; (5) any amount for which an **Insured** is not financially liable or which is without legal recourse to an **Insured**; (6) for any sum, amount or payment which constitutes restitution or disgorgement, is uninsurable as a matter of law or constitutes the return of any fees or expenses in the administration of a **Covered Plan**; or (7) **Benefits** or that portion of any settlement or award in an amount equal to such **Benefits**, unless and to the extent that recovery of such **Benefits** is based upon a covered **Wrongful**

Act, is payable as a personal obligation of an **Insured Person**, is non-**Indemnifiable Loss** and is not legally payable from a **Covered Plan**.

However, **Costs of Defense** shall be provided for items (1) through (7) above that are specifically excluded from **Loss**, subject to the other terms, conditions and exclusions of this Policy.

Where permitted by law, **Loss** shall include punitive or exemplary damages imposed upon any **Insured** (subject to this Policy's other terms, conditions and exclusions, including, but not limited to, exclusions relating to profit, deliberate fraud or criminal acts and knowing or willful violation of any statute, rule or law).

- R. **"Non-Qualified Plan"** shall mean any of the following plans for a select group of management or highly compensated directors, officers and/or **Employees**: deferred compensation plan, supplemental executive retirement plan, top-hat plan or excess benefit plan.
- S. **"Policy Period"** shall mean the period from the Inception Date of this Policy to the Expiration Date of this Policy as set forth in Item 2 of the Declarations, or its earlier termination if applicable.
- T. **"Pollutants"** shall mean any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on any list of hazardous substances issued by, the United States Environmental Protection Agency or any state, county, municipality or locality counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products and any noise.
- U. **"Pollution"** shall mean the actual, alleged or threatened discharge, release, escape or disposal of **Pollutants** into or on real or personal property, water or the atmosphere. **Pollution** also means any direction or request that the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so.
- V. **"Related Wrongful Acts"** shall mean **Wrongful Acts** which are the same, related or continuous, or **Wrongful Acts** which arise from a common nucleus of facts. **Claims** can allege **Related Wrongful Acts** regardless of whether such **Claims** involve the same or different claimants, **Insureds** or legal causes of action.
- W. **"Sponsor Organization"** shall mean the entity named in Item 1 of the Declarations and any **Subsidiary**.

X. “**Subsidiary**” shall mean any entity in which the **Sponsor Organization** owns, directly or indirectly, more than fifty percent (50%) of the voting stock:

1. on or before the Inception Date of this Policy;
2. subsequent to the Inception Date of this Policy by reason of being created or acquired by the **Sponsor Organization** after such date, if the entity’s total assets do not exceed twenty-five percent (25%) of the total consolidated assets of the **Sponsor Organization** as of the Inception Date of this Policy; or
3. subsequent to the Inception Date of this Policy by reason of being created or acquired by the **Sponsor Organization** other than as described in 2 above, if the **Sponsor Organization**, within ninety (90) days after the effective date of such creation or acquisition, provides the **Insurer** with written notice thereof and agrees to any premium adjustment and/or coverage revision that may be required by the **Insurer**.

Y. “**Wrongful Act**” shall mean:

1. as respects an **Insured**: a violation of any of the responsibilities, obligations or duties imposed upon fiduciaries by **ERISA** with respect to a **Covered Plan** solely by reason of his, her or its status and duties as a **Fiduciary** of a **Covered Plan**; and
2. as respects an **Administrator**: any act, error or omission solely in the performance of the **Administration** of a **Covered Plan** and solely by reason of his, her or its status and duties as an **Administrator** of a **Covered Plan**.

SECTION IV. EXCLUSIONS

The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured**:

- A. alleging, arising out of, based upon or attributable to the **Insured** gaining any profit, advantage or remuneration to which the **Insured** was not legally entitled; provided however, this exclusion shall only apply when it is finally adjudicated that such conduct occurred;
- B. alleging, arising out of, based upon or attributable to the committing in fact of any criminal or deliberate fraudulent act, or any knowing or willful violation of any statute, rule or law, including, but not limited to, **ERISA**;

(The **Wrongful Act** of any **Insured** shall not be imputed to any other **Insured** for the purpose of determining the applicability of the exclusions IV.A and IV.B above.)

- C. for discrimination in violation of any law, except that this exclusion shall not apply to discrimination in violation of **ERISA**;
- D. alleging, arising out of, based upon or attributable to any **Wrongful Act** or **Related Wrongful Acts** or any fact, circumstance or situation which has been the subject of any notice or **Claim** given under any other policy of which this Policy is a renewal or replacement;
- E. alleging, arising out of, based upon or attributable to any pending or prior civil, criminal, administrative or investigative proceeding involving the **Sponsor Organization** and/or any **Insured Person** as of the Pending and Prior Date stated in Item 7 of the Declarations, or any **Wrongful Act** or **Related Wrongful Acts** or any fact, circumstance or situation underlying or alleged in such proceeding;
- F. alleging, arising out of, based upon or attributable to the failure to fund a **Covered Plan** in accordance with **ERISA** or the **Covered Plan** instrument, or the failure to collect or make contributions to a **Covered Plan**, except that this exclusion shall not apply to **Costs of Defense**;
- G. alleging, arising out of, based upon or attributable to any breach of fiduciary duty or act, error or omission in his, her or its capacity as a **Fiduciary** or **Administrator** of any plan, fund or program (other than a **Covered Plan** as defined in this Policy) or by reason of his, her or its status as a **Fiduciary** or **Administrator** of such other plan, fund or program;
- H. for bodily injury, sickness, disease, death or emotional distress of any person, or damage to or destruction of any tangible property, including the loss of use thereof;
- I. alleging, arising out of, based upon or attributable to any **Wrongful Act** as respects a **Covered Plan** taking place at the time when the **Sponsor Organization** did not sponsor such **Covered Plan** or when the **Insured Person** was not a **Fiduciary** or **Administrator** of a **Covered Plan**; or
- J. alleging, arising out of, based upon or attributable to, directly or indirectly resulting from, or in consequence of, or in any way involving, **Pollution**, including but not limited to, any **Claim** for financial loss to the **Sponsor Organization** or a **Covered Plan**, its security holders or its creditors.

SECTION V. LIMIT OF LIABILITY

- A. The **Insurer** shall be liable to pay **Loss** in excess of the Retention amount stated in Item 4 of the Endorsement Declarations up to the Limit of Liability stated in Item 3 of the Endorsement Declarations.

- B. Costs of Defense** shall be part of, and not in addition to, the Limit of Liability stated in Item 3 of the Endorsement Declarations, and such **Costs of Defense** shall serve to reduce the Limit of Liability.
- C.** For purposes of the Limit of Liability, the Discovery Period is in addition to the Limit of Liability provided during the **Policy Period**. The limit of Liability for the Discovery Period shall be the greater of the remainder of the expiring policy aggregate limit or 50 % of the aggregate policy limit.

D. SECTION VI. RETENTION

- A.** The obligation of the **Insurer** to pay **Loss**, including **Costs of Defense**, will only be in excess of the applicable Retention set forth in Item 4 of the Endorsement Declarations. The **Insurer** will have no obligation whatsoever, either to the **Insured** or any other person or entity, to pay all or any portion of any Retention amount by or on behalf of any **Insured** or its representative.
- B.** More than one **Claim** alleging the same **Wrongful Act** or **Related Wrongful Acts** of one or more **Insureds** shall be considered a single **Claim**, and only one Retention shall be applicable to such single **Claim**. All such **Claims** constituting a single **Claim** shall be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such **Claim** was first made; or (2) the earliest date on which any such **Wrongful Act** or **Related Wrongful Acts** was reported under this Policy or any other policy providing similar coverage.
- C.** The **Sponsor Organization** shall be responsible for, and shall hold the **Insurer** harmless from, any amount within the Retention.

V.

Section VII., VIII. and IX. are hereby modified as follows:

- A. Section VII. Notice of Claim**, is hereby amended as follows:

- (1) The term “**Company**” is deleted from paragraph **B.** and replaced with the term “**Sponsor Organization**”.
- (2) The term “**Related Employment Practices Wrongful Acts**” is deleted from paragraph **A.** and **B.** and replaced with the term “**Related Wrongful Acts**”.
- (3) The term “**Employment Practices Wrongful Act**” is deleted from paragraph **B.** and replaced with the term “**Wrongful Act**”.
- (4) The term “**Employment Practices Claim**” is deleted from paragraph **B.** and replaced with the term “**Claim**”.

- B. Section VIII. Discovery Period**, is hereby amended as follows:

- (1) The term “**Corporation**” is replaced with the term “**Sponsor Organization**” wherever it appears.
- (2) The term “**Employment Practices Wrongful Act**” is deleted from paragraph A. and replaced with the term “**Wrongful Act**”.

C. Section IX. General Conditions, is hereby amended as follows:

- (1) The term “**Corporation**” or “**Company**” is replaced with the term “**Sponsor Organization**” wherever it appears.
- (2) The term “**Employment Practices Wrongful Act**” is replaced with the term “**Wrongful Act**” wherever it appears.
- (3) The term “**Employment Practices Claim**” is replaced with the term “**Claim**” wherever it appears.
- (4) The term “**Directors and Officers**” in the first and second sentence of paragraph B., Application, is replaced with the term “**Insureds**”.
- (5) **Section IX. E. Outside Entity Provision**, is hereby deleted in its entirety.
- (6) **Section IX. F. Coverage Extensions, paragraph (2) Worldwide Provision**, is hereby deleted in its entirety and replaced with the following:

Worldwide Provision

The coverage provided under this Policy shall apply worldwide. The terms **Sponsor Organization**, **Fiduciary** and **Administrator** are deemed to include the entity or persons who serve in equivalent positions in a foreign **Subsidiary**.

- (7) **Section IX. F. Coverage Extensions, paragraph (3) Estates and Legal Representatives**, is hereby deleted in its entirety and replaced with the following:

Estates and Legal Representatives

The coverage provided by this Policy shall also apply to the estates, heirs, legal representatives or assigns of any **Insured Person** in the event of their death, incapacity or bankruptcy, but only for **Claims** arising out of any actual or alleged **Wrongful Act** of such **Insured Person**.

- (8) **Section IX. G. Priority of Payments**, is hereby deleted in its entirety and replaced with the following:
 - (1) In the event there is a **Loss** arising from one or more covered **Claims** for which payment is due under this Policy, the **Insurer** shall in all events:

- a. first pay such **Loss** for which coverage is provided under this Policy to an **Insured Person** and/or a **Covered Plan**; then,
- b. with respect to whatever remaining amount of the Limit of Liability is available after payment pursuant to Section G.1.(a) above, pay such **Loss** for which coverage is provided under this Policy to the **Sponsor Organization**.

(9) **Section IX. General Conditions**, is hereby amended by adding the following to the end thereof:

WAIVER OF RECOURSE

If this Policy has been purchased by an **Insured Person** rather than a **Covered Plan**, the **Insurer** shall have no right of recourse against any such **Insured Person**; however, the **Insurer** shall have a right of recourse against any **Insured Person** for any **Claim** by any **Insured** against any other **Insured** if such **Claim** is not initiated by and maintained independent of and without the assistance, participation or solicitation of the **Insured** against whom the **Claim** is made.

OTHER INSURANCE

All **Loss** payable under this Policy shall be specifically excess of and will not contribute with any other valid insurance (whether collectible or not), including, but not limited to, any other insurance under which there is a duty to defend, unless such other insurance is specifically stated to be and was underwritten as excess insurance to this particular Policy. This Policy will not be subject to the terms of any other insurance.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

AUTHORIZED REPRESENTATIVE

DATE



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT #

Policy Number:
Endorsements:

Effective Date of

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

"RUN-OFF" COVERAGE EXCLUSION

In consideration of the additional premium of \$_____, it is hereby understood and agreed that upon the "Effective Date" of the "Transaction", coverage under this Policy shall be converted to Run-Off coverage for any **Employment Practices Claim** made against any **Insured** and reported to the **Insurer** during the "Run-Off Period" defined below.

Notwithstanding any other provision of this Policy, coverage for an **Employment Practices Claim** made during the "Run-Off Period" shall apply solely with respect to any **Employment Practices Wrongful Act** committed or alleged to have been committed prior to the "Effective Date."

The limit of liability of the "Run-Off Period" shall be part of, and not in addition to, the Limit of Liability stated in Item 3 of the Declarations.

"Transaction" shall mean _____

"Effective Date" shall mean _____

"Run-Off Period" shall mean _____

"Successor Company" shall mean _____

Section III. DEFINITIONS, R. "**Policy Period**" is deleted in its entirety and replaced with the following:

R. "**Policy Period**" shall mean the Run-Off Period.

Section VI. Retention, paragraphs **A** and **B** are deleted in their entirety and replaced with the following:

A. One Retention shall apply to **Loss** arising from each **Employment Practices Claim** alleging the same **Employment Practices Wrongful Act** or **Related Employment Practices Wrongful Acts**. The **Company** and the Successor Company shall be responsible for, and shall hold the **Insurer** harmless from, any amount within the Retention.

Section VII.A. Notice of Claim, is deleted in its entirety and replaced with the following:

A. The **Insureds** shall, as a condition precedent to their rights under this Policy, give the **Insurer** notice in writing of any **Employment Practices Claim** which is made during the Run-Off Period. Such notice shall be given as soon as practicable within the Run-Off Period. If notice is provided pursuant to this Section, any **Employment Practices Claim** subsequently made against an **Insured** and reported to the **Insurer** alleging, arising out of, based upon or attributable to the prior noticed **Employment Practices Claim** or alleging any **Related Employment Practices Wrongful Act**, shall be considered related to the prior **Claim** and made at the time notice of the prior **Employment Practices Claim** was first provided.

Section VII.B. Notice of Claim, is deleted in its entirety.

Section VIII. Discovery Period, is deleted in its entirety.

Section IX.A. General Conditions, Cancellation or Nonrenewal, is deleted in its entirety and replaced with the following:

A. Cancellation or Nonrenewal

This Policy may only be cancelled in the event of non-payment of premium by the **Corporation**.

Section IX. D., General Conditions, Conversion to Run-Off Coverage, is deleted in its entirety.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT #

Policy Number:
Endorsements:

Effective Date of

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SEXUAL MISCONDUCT AND CHILD ABUSE EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** (including but not limited to any derivative or representative class actions) made against any **Insured** alleging, arising out of, based upon or attributable to any Sexual Misconduct, child abuse or neglect, including but not limited to the employment, supervision, reporting to the proper authorities, failure to so report or retention of any person.

"Sexual Misconduct" means any lewd, lascivious, licentious, immoral or sexual behavior, sexual conduct, sexual abuse, sexual assault, sexual act or molestation of any kind, intended or unintended, that does or may lead to or culminate in any sexual act against any individual(s).

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT #

Policy Number:

Effective Date of Endorsements:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**SPECIFIC ENTITY EXCLUSION
(CLAIMS BROUGHT AGAINST)**

In consideration of the premium charged, it is hereby understood and agreed that the **Insurer** shall not be liable for any **Loss** in connection with any **Employment Practices Claim** made against any entity(ies) listed below:

1. _____(including any subsidiary or affiliate thereof)

and/or any director, officer, partner, management committee members or members of the Board of Managers or employees thereof; or by any security holder of the entity, whether directly, indirectly, beneficially or derivatively.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT #

Policy Number:

Effective Date of Endorsements:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**SPECIFIC ENTITY EXCLUSION
(CLAIMS BROUGHT BY)**

In consideration of the premium charged, it is hereby understood and agreed that the **Insurer** shall not be liable for any **Loss** in connection with any **Employment Practices Claim** brought by or on behalf of the following entity(ies):

1. _____ (including any subsidiary or affiliate thereof)
2. _____ (including any subsidiary or affiliate thereof)
3. _____ (including any subsidiary or affiliate thereof)
4. _____ (including any subsidiary or affiliate thereof)
5. _____ (including any subsidiary or affiliate thereof)

and/or any director, officer, partner, management committee members or members of the Board of Managers or employees thereof; or by any security holder of the entity whether directly, indirectly, beneficially or derivatively.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



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ENDORSEMENT #

Policy Number:

Effective Date of Endorsements:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**SPECIFIC ENTITY EXCLUSION
(CLAIMS BROUGHT BY OR AGAINST)**

In consideration of the premium charged, it is hereby understood and agreed that the **Insurer** shall not be liable for any **Loss** in connection with any **Employment Practices Claim** brought by, on behalf of, or against the following entity(ies):

1. _____ (including any subsidiary or affiliate thereof)
2. _____ (including any subsidiary or affiliate thereof)
3. _____ (including any subsidiary or affiliate thereof)
4. _____ (including any subsidiary or affiliate thereof)
5. _____ (including any subsidiary or affiliate thereof)

and/or any director, officer, partner, management committee members or members of the Board of Managers or employees thereof; or by any security holder of the entity whether directly, indirectly, beneficially or derivatively.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT

Policy Number:

Effective Date of Endorsements:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIFIC INDIVIDUAL EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that the **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Employment Practices Claim** brought by or on behalf of the individual(s) listed below, and/or any entity on which such individual(s) is a director, officer, management committee member or trustee (or equivalent position), or any entity in which such individual(s) owns, or controls, 5% or more of an equity or debt ownership interest (individually or collectively) either directly, indirectly, beneficially or derivatively and/or any past, present or future director or officer (or equivalent position) of such entity.

INDIVIDUAL(S)

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT #

Policy Number:

Effective Date of Endorsements:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**SPECIFIC INVESTIGATION/CLAIM/LITIGATION/EVENT
OR ACT EXCLUSION**

In consideration of the premium charged, it is hereby understood and agreed that, without limiting the effectiveness of Section IV exclusions B or C of this Policy, the **Insurer** shall not be liable to make any payment for **Loss** in connection with: (i) any **Employment Practices Claim**, demand, notice, event, investigation or action specified below; (hereinafter "Event"); (ii) the prosecution, adjudication, settlement, disposition, resolution or defense of: (a) any Event; or (b) any **Claim** arising from any Event; or (iii) any **Employment Practices Wrongful Act** or underlying facts, circumstances, acts or omissions in any way relating to any Event(.

EVENT:

- 1)
- 2)
- 3)

It is further understood and agreed that the **Insurer** shall not be liable for any **Loss** in connection with any **Employment Practices Claim** alleging, arising out of, based upon, or attributable to a "**Related Employment Practices Wrongful Act**" (as that term is defined below), regardless of whether or not such **Employment Practices Claim** involved the same or different **Insureds**, the same or different legal causes of action or the same or different claimants or is brought in the same or different venue or resolved in the same or different forum.

For the purposes of this endorsement a "**Related Employment Practices Wrongful Act**" means: (i) any fact, circumstance, act or omission alleged in any Event (and/or (ii) any **Employment Practices Wrongful Act** which is the same as, similar or related to or a repetition of any **Employment Practices Wrongful Act** alleged in any Event.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date

IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARKANSAS AMENDATORY ENDORSEMENT

Endorsement forming a part of and attaching to this Employment Practices Insurance Policy as stated above.

It is hereby understood and agreed that:

1. Subparagraph (2) of Paragraph **A. Cancellation or Non-Renewal of Section IX. General Conditions** is hereby deleted in its entirety and replaced by the following:

- (2) Should the **Insurer** decide to nonrenew this Policy, then the **Insurer** shall mail written notice of nonrenewal to the **Corporation** at the principal address shown in Item 1. of the Declarations at least sixty (60) days before the end of the **Policy Period**.

Should the **Insurer** revise its rates or rules resulting in a premium increase equal to or greater than twenty-five percent (25%) on any renewal Policy issued for a term of twelve (12) months or less, the **Insurer** shall mail or deliver to the **Corporation's** agent not less than thirty (30) days prior to the effective date of renewal, and to the **Corporation** not less than ten (10) days prior to the effective date of renewal, notice specifically stating the **Insurer's** intention to increase the premium by an amount equal to or greater than twenty-five percent (25%).

2. **Section VII. Notice of Claim** is hereby amended by the addition of the following:

- E. Notice given by or on behalf of the **Corporation** to any authorized agent of the **Insurer** with specific information to identify the **Insured** is deemed notice of **Claim** to the **Insurer**.

3. Paragraph **A. of Section VII. Notice of Claim** is hereby deleted in its entirety and replaced by the following:

- A. The **Insured** shall, as a condition precedent to their rights under this Policy, give the **Insurer** notice in writing of any **Claim** which is made during the **Policy Period** or Discovery period. Such notice shall be given as soon as practicable but in no event later than sixty (60) days after the end of the **Policy Period** or Discovery Period, if applicable. If notice is provided pursuant to this Section, any **Claim** subsequently made against an **Insured** and reported to the **Insurer** alleging, arising out of, based upon or attributable to the prior noticed **Claim** or alleging any **Related Wrongful Acts**, shall be considered related to the prior **Claim** and made at the time notice of the prior **Claim** was first provided.

4. Paragraph **B. of Section VIII . Discovery Period** is hereby deleted in its entirety and replaced by the following:

- B As a condition precedent to the right to purchase the Discovery Period, a written request, together with payment of the appropriate premium for the Discovery Period, must be provided to the **Insurer** no later than sixty (60) days after the end of the **Policy Period**.

5. Paragraph **C.** of **Section VIII. Discovery Period** is hereby deleted in its entirety and replaced by the following:

- C.** For purposes of the Limit of Liability, the Discovery Period is in addition to the Limit of Liability provided during the **Policy Period**. The Limit of Liability for the Discovery Period shall be the greater of the remainder of the expiring policy aggregate limit or 50 % of the aggregate policy limit.

3. **Section IX. General Conditions** is hereby amended by the addition of the following:

The Arkansas Insurance Department can be contacted at the following address and telephone number:

Arkansas Insurance Department
Consumer Services Division
1200 W. 3rd Street
Little Rock, AR 72201-1904
Telephone (800) 852-5494 or (501) 371-2640

All other terms and conditions of this policy remain unchanged.

<i>SERFF Tracking Number:</i>	<i>WESA-125576959</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>Ironshore Indemnity, Inc.</i>	<i>State Tracking Number:</i>	<i>#2074 \$50</i>
<i>Company Tracking Number:</i>	<i>EPLI-08-001</i>		
<i>TOI:</i>	<i>17.1 Other Liability - Claims Made Only</i>	<i>Sub-TOI:</i>	<i>17.1010 Employment Practices Liability</i>
<i>Product Name:</i>	<i>Employment Practices Liability Insurance Product (EPLI)</i>		
<i>Project Name/Number:</i>	<i>Submission of EPLI Product - New Program/EPLI-08-001</i>		

Rate Information

Rate data does NOT apply to filing.

SERFF Tracking Number: WESA-125576959 State: Arkansas
Filing Company: Ironshore Indemnity, Inc. State Tracking Number: #2074 \$50
Company Tracking Number: EPLI-08-001
TOI: 17.1 Other Liability - Claims Made Only Sub-TOI: 17.1010 Employment Practices Liability
Product Name: Employment Practices Liability Insurance Product (EPLI)
Project Name/Number: Submission of EPLI Product - New Program/EPLI-08-001

Supporting Document Schedules

Satisfied -Name: Uniform Transmittal Document-Property & Casualty
Review Status: Approved 04/10/2008

Comments:

Attached is the AR NAIC form.

Attachment:

AR NAIC.pdf

Satisfied -Name: III Letter of Authorization
Review Status: Approved 04/10/2008

Comments:

Attached is the letter of authorization.

Attachment:

LOA. Westmont.pdf

Satisfied -Name: Cover Letter
Review Status: Approved 04/10/2008

Comments:

Attached is the cover letter.

Attachment:

Cover Letter Template Forms (Rates EXEMPT).pdf

Satisfied -Name: EPLI AR - Approval - National Specialty
Review Status: Approved 04/10/2008

Comments:

Attached is the EPLI approval for National Specialty.

Attachment:

AR Form Approval.pdf

Property & Casualty Transmittal Document

1. Reserved for Insurance Dept. Use Only	2. Insurance Department Use only	
	a. Date the filing is received:	
	b. Analyst:	
	c. Disposition:	
	d. Date of disposition of the filing:	
	e. Effective date of filing:	
	New Business	
	Renewal Business	
	f. State Filing #:	
	g. SERFF Filing #:	
h. Subject Codes		

3. Group Name					Group NAIC #
4. Company Name(s)	Domicile	NAIC #	FEIN #	State #	

5. Company Tracking Number	
-----------------------------------	--

Contact Info of Filer(s) or Corporate Officer(s) [include toll-free number]

6. Name and address	Title	Telephone #s	FAX #	e-mail
7. Signature of authorized filer				
8. Please print name of authorized filer				

Filing information (see General Instructions for descriptions of these fields)

9. Type of Insurance (TOI)				
10. Sub-Type of Insurance (Sub-TOI)				
11. State Specific Product code(s)(if applicable)[See State Specific Requirements]				
12. Company Program Title (Marketing title)				
13. Filing Type	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)			
14. Effective Date(s) Requested	New:		Renewal:	
15. Reference Filing?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
16. Reference Organization (if applicable)				
17. Reference Organization # & Title				
18. Company's Date of Filing				
19. Status of filing in domicile	<input type="checkbox"/> Not Filed <input type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved			

Property & Casualty Transmittal Document—

20.	This filing transmittal is part of Company Tracking #	
21.	Filing Description [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]	

[illegible]

***Refer to the each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)

FORM FILING SCHEDULE

(This form must be provided ONLY when making a filing that includes forms)

(Do not refer to the body of the filing for the forms listing, unless allowed by state.)

1.	This filing transmittal is part of Company Tracking #				
2.	This filing corresponds to rate/rule filing number (Company tracking number of rate/rule filing, if applicable)				
3.	Form Name /Description/Synopsis	Form # Include edition date	Replacement Or withdrawn?	If replacement, give form # it replaces	Previous state filing number, if required by state
01			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
02			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
03			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
04			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
05			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
06			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
07			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
08			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
09			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
10			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		

PC FFS-1



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway), 12th Floor
New York, NY 10006
tel (646) 826 6600
toll free (877) IRON411
fax (646) 826 6601
www.ironshore.com

December 19, 2007

RE: Ironshore Indemnity Inc.
NAIC#: 23647
FEIN#: 41-0121640
Letter of Authorization
Filing of Forms, Rates and Rules

In accordance with the applicable statutes and regulations of your state, Nancy Stepanski, Wesley Pohler, Jennifer Waldron and Westmont Associates, Inc. are hereby authorized to file form, rate and rule filings on behalf of the Company.

Please direct all correspondence in relation to these filings directly to Mr. Wesley Pohler of Westmont Associates, Inc., 25 Chestnut Street, Suite 105, Haddonfield, NJ 08033. Should you have any questions concerning these filings, please contact Mr. Pohler at (856) 216-0220, fax (856) 216-0303 or by email at Wes@westmontlaw.com

Thank you for your assistance in this matter.

Sincerely,

Michael Mitrovic
Senior Vice President

cc: Peter McKeegan
Andrew Cahill



March 26, 2008

Department of Insurance
Property and Casualty Division
Form and Rate Filings Review

RE: **Ironshore Indemnity, Inc.**
NAIC#: 23647/ FEIN#: 41-0121640
Employment Practices Liability Insurance Product (EPLI)
New Submission – Form Filing
Company Filing #: EPLI-08-001-F
Effective Date: Upon Earliest Possible Approval

To Whom It May Concern:

Enclosed please find attached Ironshore Indemnity Inc's (the "Company") Employment Practices Liability Insurance Product submission for your review and approval. This is a new filing and does not replace any forms currently on file in your jurisdiction. A letter permitting Westmont Associates, Inc. to submit this filing on the Company's behalf is enclosed.

The Company's filing is identical to National Specialty Insurance Company's currently approved Employment Practices Liability Insurance Product filing submission, with Company identifying information revised accordingly.

Attached are the forms that will be used with this filing. The rates and rules to be used with the enclosed forms are EXEMPT from filing.

Upon approval of the Company's filing, all new and renewal business currently written on National Specialty's paper will be written by Ironshore Indemnity, Inc. A copy of the National Specialty filing approval has been attached for your ease of reference.

Your approval and/or acknowledgement of this submission is respectfully requested. Thank you for your attention to this matter.

Respectfully submitted,

Wesley Pohler

Wesley Pohler
Assistant Vice President
wes@westmontlaw.com

Enclosures

cc: N. Stepanski
A. Cahill

<i>SERFF Tracking Number:</i>	<i>STNA-125344056</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>National Specialty Insurance Company</i>	<i>State Tracking Number:</i>	<i>#25694 \$50</i>
<i>Company Tracking Number:</i>	<i>EPLI-07-001-F</i>		
<i>TOI:</i>	<i>17.0 Other Liability - Claims Made/Occurrence</i>	<i>Sub-TOI:</i>	<i>17.0010 Employment Practices Liability</i>
<i>Product Name:</i>	<i>Employment Practices Liability Program</i>		
<i>Project Name/Number:</i>	<i>Employment Practices Liability Program/EPLI-07-001-F</i>		

Filing at a Glance

Company: National Specialty Insurance Company

Product Name: Employment Practices Liability SERFF Tr Num: STNA-125344056 State: Arkansas

Program

TOI: 17.0 Other Liability - Claims

SERFF Status: Closed

State Tr Num: #25694 \$50

Made/Occurrence

Sub-TOI: 17.0010 Employment Practices

Co Tr Num: EPLI-07-001-F

State Status: Fees verified and received

Liability

Filing Type: Form

Co Status:

Reviewer(s): Betty Montesi, Edith Roberts, Brittany Yielding

Author: Meghan Slenkamp

Disposition Date: 12/06/2007

Date Submitted: 11/01/2007

Disposition Status: Approved

Effective Date Requested (New): On Approval

Effective Date (New):

Effective Date Requested (Renewal): On Approval

Effective Date (Renewal):

General Information

Project Name: Employment Practices Liability Program

Project Number: EPLI-07-001-F

Status of Filing in Domicile: Authorized

Domicile Status Comments: Authorized in Texas.

Reference Organization: None

Reference Number: None

Reference Title: n/a

Advisory Org. Circular: n/a

Filing Status Changed: 12/06/2007

Company Status Changed:

State Status Changed: 12/06/2007

Deemer Date:

Created By: Meghan Slenkamp

Submitted By: Meghan Slenkamp

Corresponding Filing Tracking Number:

Filing Description:

Submission of Employment Practices Liability Insurance (EPLI) - New Program.

Company and Contact

Filing Contact Information

Wesley Pohler, Assistant Vice President

wes@westmontlaw.com

<i>SERFF Tracking Number:</i>	<i>WESA-125576959</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>Ironshore Indemnity, Inc.</i>	<i>State Tracking Number:</i>	<i>#2074 \$50</i>
<i>Company Tracking Number:</i>	<i>EPLI-08-001</i>		
<i>TOI:</i>	<i>17.1 Other Liability - Claims Made Only</i>	<i>Sub-TOI:</i>	<i>17.1010 Employment Practices Liability</i>
<i>Product Name:</i>	<i>Employment Practices Liability Insurance Product (EPLI)</i>		
<i>Project Name/Number:</i>	<i>Submission of EPLI Product - New Program/EPLI-08-001</i>		

Superseded Attachments

Please note that all items on the following pages are items, which have been replaced by a newer version. The newest version is located with the appropriate schedule on previous pages. These items are in date order with most recent first.

Original Date:	Schedule	Document Name	Replaced Date	Attach Document
No original date	Form	Amend Notice Provision	03/26/2008	Amended Notice Provision - CEO CFO RM or GC.EPLI.EX.002.pdf
No original date	Form	Employee Benefit Plan Fiduciary Insurance Combo Endorsement (Separate Limit)	03/26/2008	PTL Separate Limits.EPLI.EX.009.pdf



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT #

Policy Number:
Endorsements:

Effective Date of

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDED NOTICE PROVISION

In consideration of the premium charged, it is hereby understood and agreed that Section VII.A, Notice of Claim, is deleted in its entirety and replace with the following:

- A. The **Insured** shall, as a condition precedent to their rights under this Policy, give the **Insurer** notice in writing of any **Employment Practices Claim** which is made during the **Policy Period**. Such notice shall be given as soon as practicable after the chief executive officer, chief financial officer, risk manager or general counsel become aware of such **Employment Practices Claim** but in no event later than thirty (30) days after the end of the **Policy Period** or Discovery Period, if applicable. If notice is provided pursuant to this Section, any **Employment Practices Claim** subsequently made against an **Insured** and reported to the **Insurer** alleging, arising out of, based upon or attributable to the prior noticed **Employment Practices Claim** or alleging any **Related Employment Practices Wrongful Acts**, shall be considered related to the prior **Employment Practices Claim** and made at the time notice of the prior **Employment Practices Claim** was first provided.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date



IRONSHORE INDEMNITY INC.

1 Exchange Plaza
(55 Broadway) 12th Floor
New York, NY 10006
(877) IRON411

ENDORSEMENT

Policy Number:

Effective Date of Endorsements:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEE BENEFIT PLAN FIDUCIARY INSURANCE COMBO ENDORSEMENT (SEPARATE LIMIT)

In consideration of the premium charged, and in reliance upon the statements in the application made a part hereof, it is hereby understood and agreed that this policy shall provide EMPLOYEE BENEFIT PLAN FIDUCIARY INSURANCE coverage pursuant to the terms and conditions contained in this endorsement.

ENDORSEMENT DECLARATIONS

ITEM 1. SPONSOR ORGANIZATION NAME AND PRINCIPAL ADDRESS:	ITEM 2. POLICY PERIOD: (a) Inception Date - (b) Expiration Date - at 12:01 a.m. for both dates at the principal address shown in ITEM 1.
ITEM 3. LIMIT OF LIABILITY (inclusive of Costs of Defense): \$_____ (aggregate Limit of Liability for all Claims made or deemed made during the Policy Period).	
ITEM 4. RETENTION: \$_____ (applicable to Indemnifiable Loss , including payment of Costs of Defense)	

ITEM 5. PENDING AND PRIOR DATE: _____

I.

The aggregate Limit of Liability stated in Item 3 of the Endorsement Declarations is for all **Loss** combined provided by this endorsement (including **Costs of Defense**) for EMPLOYEE BENEFIT PLAN FIDUCIARY INSURANCE and is NOT PART OF AND IS IN ADDITION TO the aggregate Limit of Liability stated in Item 3 of the Declarations which is for Coverage A, B and C (including **Costs of Defense**).

II.

All the terms and conditions of form EPL 2007 POL (8/07 Ed.) are hereby incorporated herein and shall apply to coverage as is afforded by this endorsement unless specifically stated otherwise herein or in an endorsement(s) attached hereto. Any endorsement(s) attached hereto shall apply only to form EPL 2007 POL (8/07 Ed.) unless specifically stated otherwise.

III.

Solely with regard to the coverage afforded by this endorsement, **Section I. INSURING AGREEMENT** is deleted in its entirety and replaced with the following:

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the **Insurer** shown in the Declarations, including the statements made in the application for this insurance which are incorporated herein, and subject to all terms, conditions and limitations of this policy (hereinafter, "Policy"), the **Insured** and **Insurer** agree:

SECTION I. INSURING AGREEMENT

The **Insurer** shall pay on behalf of the **Insured** all **Loss** which the **Insured** shall become legally obligated to pay as a result of a **Claim** first made anywhere in the world against any **Insured** during the **Policy Period** (or any applicable Discovery Period) and reported to the **Insurer** pursuant to Section VII for a **Wrongful Act** by a **Fiduciary, Administrator** and/or **Sponsor Organization** of a **Covered Plan** or by any person for whose **Wrongful Act** the **Sponsor Organization** is legally responsible.

IV.

Solely with respect to the coverage afforded by this endorsement, **Section II** through **Section VI** are hereby deleted in their entirety and replaced with the following:

SECTION II. DEFENSE AGREEMENT

A. INSURER'S DUTY TO DEFEND

Except as hereafter stated, the **Insurer** shall have both the right and duty to defend any **Claim** against an **Insured** alleging a **Wrongful Act** by a **Fiduciary, Administrator** and/or **Sponsor Organization** of a **Covered Plan** (even if such **Claim** is groundless, false or fraudulent) and the **Insurer** shall have the right to select defense counsel.

The **Insured** shall have the right to effectively associate with the **Insurer** in the defense of any **Claim**, including, but not limited to, negotiating a settlement. The **Insurer** shall not, however, be obligated to defend any **Claim** after the Limit of Liability has been exhausted.

B. INSURED'S OPTION TO ASSUME THE DEFENSE

Notwithstanding the above, the **Insured** shall have the right to assume the defense of any **Claim** made against them. This right shall be exercised in writing by the **Sponsor Organization** on behalf of all **Insureds** within sixty (60) days of the reporting of the **Claim** to the **Insurer** pursuant to Section VII of this Policy. Upon receipt of such written request from the **Insured**, the **Insurer** shall tender the defense of the **Claim** to the **Insureds**. The **Insurer** shall have the right to effectively associate with the **Insureds** in the defense of any **Claim**, including but not limited to negotiating a settlement. Provided that the **Insurer** shall be permitted to effectively associate with the **Insureds** in the defense of any **Claim** (including, but not limited to, negotiating a settlement of any **Claim**), the **Insurer's** consent to a settlement, stipulated judgment or **Costs of Defense** shall not be unreasonably withheld.

In the event the **Insured** assumes the defense of the **Claim**, the **Insurer** shall advance **Costs of Defense** pursuant to Section II. C immediately below.

C. ALLOCATION

1. If a **Claim**, judgment or settlement results in **Loss** covered under this Policy and loss not covered under this Policy because a **Claim**, judgment or settlement includes both covered and uncovered allegations, damages, defendants, wrongful acts or fees or expenses, the **Insured** and the **Insurer** agree that the

Insurer shall have the right to allocate for such uncovered loss. If there is no agreement between the **Insurer** and the **Insured** on the amount of **Costs of Defense** to be advanced for the **Claim**, the **Insurer** shall advance **Costs of Defense** that it reasonably believes are covered under this Policy until a different allocation is negotiated or determined.

2. Any negotiated or determined allocation of **Costs of Defense** in connection with a **Claim** shall be applied retroactively, notwithstanding any allocation applied with respect to any prior advancement of **Costs of Defense**. Any allocation or advancement of **Costs of Defense** in connection with a **Claim** shall not apply to or create any presumption as to allocation of indemnity **Loss**.

D. GENERAL PROVISIONS (applicable to A., B. and C. above)

The **Insureds** shall not incur **Costs of Defense**, admit liability, offer to settle, or agree to any settlement in connection with any **Claim** without the prior written consent of the **Insurer**, which consent shall not be unreasonably withheld. The **Insurer** shall have the right to make investigations and conduct negotiations and, with the consent of the **Insured**, enter into such settlement of any **Claim** as the **Insurer** deems appropriate.

If all **Insureds** are able to settle all **Claims** that are subject to a single Retention for an amount that, together with the **Costs of Defense**, does not exceed the Retention, the **Insured** may agree to such a settlement without the prior written consent of the **Insurer**.

The **Insurer** shall have no obligation to pay **Loss**, including **Costs of Defense**, or to defend or continue to defend any **Claim** after the **Insurer's** aggregate Limit of Liability (as set forth in Item 3 of the Declarations) has been exhausted by the payment of **Loss**, including **Costs of Defense**. If the **Insurer's** aggregate Limit of Liability (as set forth in Item 3 of the Declarations) is exhausted by the payment of **Loss**, including **Costs of Defense**, the entire premium (as stated in Item 5 of the Declarations and any endorsement) will be deemed fully earned.

E. COOPERATION

In the event of a **Claim**, the **Insured** shall provide the **Insurer** with all information, documents, assistance, and cooperation that the **Insurer** reasonably requests. At the **Insurer's** request, the **Insured** shall provide full cooperation and assist in any actions, suits, or proceedings, including, but not limited to, attending hearings, trials and depositions, securing and giving evidence, obtaining the attendance of witnesses, and assisting in making settlements.

SECTION III. DEFINITIONS

A. **"Administration"** shall mean:

1. giving advice, counsel or notice to **Employees**, participants, or beneficiaries of a **Covered Plan**;
2. maintaining records of a **Covered Plan**; or
3. activities affecting enrollment, termination, or cancellation of **Employees**, participants or beneficiaries of a **Covered Plan**.

B. **"Administrator"** shall mean an **Insured** with respect to any **Wrongful Act** described in Section III.Y.2.

C. **"Benefits"** shall mean any obligation under a **Covered Plan** to **Employees**, participants or beneficiaries under a **Covered Plan** which is a payment of money or property, or the grant of a privilege, right, option or perquisite.

D. **"Breach of Fiduciary Duty"** shall mean a violation of the responsibilities, obligations or duties imposed upon an **Insured** by **ERISA**.

E. **"Claim"** shall mean:

1. any written demand for monetary, non-monetary or injunctive relief;
2. any written request to toll or waive any statute of limitations;
3. any civil proceeding in a court of law or equity or an arbitration proceeding, including any appeal therefrom, which is commenced by the filing of a complaint, motion for judgment or similar pleading and/or any criminal

proceeding which is commenced by the return of an indictment or similar document; or

4. any administrative or regulatory proceeding or investigation, including an investigation brought by the U.S. Department of Labor, the Pension Benefit Guaranty Corporation or any similar governmental agency commenced by the filing of a notice of charges, a formal notice of investigation or similar document.

F. **"Covered Plan"** shall mean:

1. any "employee pension benefit plan" or "employee welfare benefit plan" (as each is defined in **ERISA**) except for the kinds of plans listed in the parenthetical in F.3 below, located anywhere in the world which is operated solely by the **Sponsor Organization** solely for the **Employees** of the **Sponsor Organization** and which existed on or before the Inception Date stated in Item 2 of the Declarations, or which is created or acquired after the Inception Date; provided that any coverage with respect to such plan created or acquired during the **Policy Period** shall apply only for **Wrongful Acts** committed, attempted or allegedly committed or attempted after the effective date of such creation or acquisition and shall be subject to Section III.X.3;
2. any cafeteria plan, as defined in Section 125 of the Internal Revenue Code of 1986 (as amended), from which the participants may choose among two or more benefits consisting of cash and qualified benefits, or any dependent care assistance program, (as defined in Section 129 of the Internal Revenue Code of 1986 (as amended)), sponsored solely by the **Sponsor Organization** for the **Employees** of the **Sponsor Organization** and/or their beneficiaries;
3. any other employee benefit plan or program added to this Policy by specific written endorsement (including an employee stock ownership plan (**ESOP**), multiple employer welfare arrangement (**MEWA**), a voluntary employees beneficiary association (**VEBA**), or a **Non-Qualified Plan**) which is sponsored solely by the **Sponsor Organization** for **Employees** of the **Sponsor Organization**; and

4. the following government-mandated programs: unemployment insurance, Social Security or disability benefits but solely with respect to a **Wrongful Act** defined in Section III.Y.2 of this Policy and solely with respect to **Employees** of the **Sponsor Organization**.

Covered Plan shall not include any "multiemployer plan" (as defined by **ERISA**).

- G. "**Costs of Defense**" shall mean reasonable and necessary legal fees, costs and expenses incurred in the investigation, defense or appeal of any **Claim**, including the costs of an appeal bond, attachment bond or similar bond (but without obligation on the part of the **Insurer** to apply for or furnish such bonds); provided, however, **Costs of Defense** shall not include salaries, wages, overhead or benefit expenses associated with any **Insured**. If an **Insured** has elected to assume the defense pursuant to Section II.B, **Costs of Defense** shall only be reimbursable when the **Insurer** has consented in advance and in writing to the incurring of such reasonable and necessary legal fees, costs and expenses, such consent to not be unreasonably withheld.
- H. "**Domestic Partner**" shall mean any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Sponsor Organization**.
- I. "**Employees**" shall mean any natural person whose labor or service is engaged by and directed by the **Sponsor Organization**. Employee shall not include any independent contractor or outside service provider.
- J. "**ERISA**" shall mean the Employee Retirement Income Security Act of 1974 (as amended) (including, but not limited to, amendments to **ERISA** contained in the Consolidated Omnibus Budget Reconciliation Act of 1985; the Health Insurance Portability and Accountability Act of 1996; the Newborns' and Mothers' Health Protection Act of 1996; the Mental Health Parity Act of 1996; or, the Women's Health and Cancer Rights Act of 1998), and including any rules or regulations under **ERISA** and any similar common or statutory law of any other jurisdiction anywhere in the world to which a **Covered Plan** is subject.

- K. **"ESOP"** shall mean an "employee stock ownership plan" (as defined in **ERISA**), or any other **Covered Plan** under which investments are made primarily in securities of the **Sponsor Organization** or whose assets at any time within twelve months prior to the inception date of this Policy were comprised of twenty percent (20%) or more of securities of the **Sponsor Organization**.
- L. **"Fiduciary"** shall mean a fiduciary as defined in **ERISA** and any rules or regulations under **ERISA** with respect to a **Covered Plan** or a person or entity who exercises discretionary control in the management of a **Covered Plan** or the disposition of its assets.
- M. **"Indemnifiable Loss"** shall mean **Loss** for which the **Sponsor Organization** has indemnified or is permitted or required to indemnify any **Insured Person**.
- N. **"Insured"** shall mean the **Sponsor Organization**, any **Covered Plan**, any **Insured Person**, or any other person or entity added to this Policy by specific, written endorsement.
- O. **"Insured Person"** shall mean any past, present or future natural person director, officer, general partner, governor, management committee member, member of the board of managers or **Employees** of a **Sponsor Organization** or, if applicable, of a **Covered Plan**, and as to all of the above solely in his or her capacity as a **Fiduciary** or **Administrator** of a **Covered Plan**.
- P. **"Insurer"** shall mean the company stated in Item 8 of the Declarations.
- Q. **"Loss"** shall mean damages, judgments (including pre-judgment interest and post-judgment interest on that portion of a covered judgment), settlements and **Costs of Defense**; however, **Loss** shall not include: **(1)** civil or criminal fines or penalties imposed by law, except (i) the administrative assessment of a five percent (5%) or less civil penalty permitted under Section 502(i) of **ERISA** and (ii) the civil penalties of twenty percent (20%) or less for violations by a fiduciary, permitted under Section 502(l) of **ERISA**, with respect to covered settlements or judgments; **(2)** the return or reversion to any employer of any contribution or asset of a **Covered Plan**; **(3)** the multiplied portion of multiplied damages; **(4)** taxes or tax penalties; **(5)** any amount for which an **Insured** is not

financially liable or which is without legal recourse to an **Insured**; **(6)** for any sum, amount or payment which constitutes restitution or disgorgement, is uninsurable as a matter of law or constitutes the return of any fees or expenses in the administration of a **Covered Plan**; or **(7) Benefits** or that portion of any settlement or award in an amount equal to such **Benefits**, unless and to the extent that recovery of such **Benefits** is based upon a covered **Wrongful Act**, is payable as a personal obligation of an **Insured Person**, is non-**Indemnifiable Loss** and is not legally payable from a **Covered Plan**.

However, **Costs of Defense** shall be provided for items **(1)** through **(7)** above that are specifically excluded from **Loss**, subject to the other terms, conditions and exclusions of this Policy.

Where permitted by law, **Loss** shall include punitive or exemplary damages imposed upon any **Insured** (subject to this Policy's other terms, conditions and exclusions, including, but not limited to, exclusions relating to profit, deliberate fraud or criminal acts and knowing or willful violation of any statute, rule or law).

- R. **"Non-Qualified Plan"** shall mean any of the following plans for a select group of management or highly compensated directors, officers and/or **Employees**: deferred compensation plan, supplemental executive retirement plan, top-hat plan or excess benefit plan.
- S. **"Policy Period"** shall mean the period from the Inception Date of this Policy to the Expiration Date of this Policy as set forth in Item 2 of the Declarations, or its earlier termination if applicable.
- T. **"Pollutants"** shall mean any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on any list of hazardous substances issued by, the United States Environmental Protection Agency or any state, county, municipality or locality counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odor, waste

water, oil or oil products, infectious or medical waste, asbestos or asbestos products and any noise.

- U. **"Pollution"** shall mean the actual, alleged or threatened discharge, release, escape or disposal of **Pollutants** into or on real or personal property, water or the atmosphere. **Pollution** also means any direction or request that the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so.
- V. **"Related Wrongful Acts"** shall mean **Wrongful Acts** which are the same, related or continuous, or **Wrongful Acts** which arise from a common nucleus of facts. **Claims** can allege **Related Wrongful Acts** regardless of whether such **Claims** involve the same or different claimants, **Insureds** or legal causes of action.
- W. **"Sponsor Organization"** shall mean the entity named in Item 1 of the Declarations and any **Subsidiary**.
- X. **"Subsidiary"** shall mean any entity in which the **Sponsor Organization** owns, directly or indirectly, more than fifty percent (50%) of the voting stock:
 - 1. on or before the Inception Date of this Policy;
 - 2. subsequent to the Inception Date of this Policy by reason of being created or acquired by the **Sponsor Organization** after such date, if the entity's total assets do not exceed twenty-five percent (25%) of the total consolidated assets of the **Sponsor Organization** as of the Inception Date of this Policy; or
 - 3. subsequent to the Inception Date of this Policy by reason of being created or acquired by the **Sponsor Organization** other than as described in 2 above, if the **Sponsor Organization**, within ninety (90) days after the effective date of such creation or acquisition, provides the **Insurer** with written notice thereof and agrees to any premium adjustment and/or coverage revision that may be required by the **Insurer**.
- Y. **"Wrongful Act"** shall mean:
 - 1. as respects an **Insured**: a violation of any of the responsibilities, obligations or duties imposed upon

fiduciaries by **ERISA** with respect to a **Covered Plan** solely by reason of his, her or its status and duties as a **Fiduciary** of a **Covered Plan**; and

2. as respects an **Administrator**: any act, error or omission solely in the performance of the **Administration** of a **Covered Plan** and solely by reason of his, her or its status and duties as an **Administrator** of a **Covered Plan**.

SECTION IV. EXCLUSIONS

The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured**:

- A. alleging, arising out of, based upon or attributable to the **Insured** gaining any profit, advantage or remuneration to which the **Insured** was not legally entitled; provided however, this exclusion shall only apply when it is finally adjudicated that such conduct occurred;
- B. alleging, arising out of, based upon or attributable to the committing in fact of any criminal or deliberate fraudulent act, or any knowing or willful violation of any statute, rule or law, including, but not limited to, **ERISA**;

(The **Wrongful Act** of any **Insured** shall not be imputed to any other **Insured** for the purpose of determining the applicability of the exclusions IV.A and IV.B above.)

- C. for discrimination in violation of any law, except that this exclusion shall not apply to discrimination in violation of **ERISA**;
- D. alleging, arising out of, based upon or attributable to any **Wrongful Act** or **Related Wrongful Acts** or any fact, circumstance or situation which has been the subject of any notice or **Claim** given under any other policy of which this Policy is a renewal or replacement;
- E. alleging, arising out of, based upon or attributable to any pending or prior civil, criminal, administrative or investigative proceeding involving the **Sponsor Organization** and/or any **Insured Person** as of the Pending and Prior Date stated in Item 7 of the Declarations, or any **Wrongful Act** or **Related Wrongful Acts** or any fact, circumstance or situation underlying or alleged in such proceeding;

- F. alleging, arising out of, based upon or attributable to the failure to fund a **Covered Plan** in accordance with **ERISA** or the **Covered Plan** instrument, or the failure to collect or make contributions to a **Covered Plan**, except that this exclusion shall not apply to **Costs of Defense**;
- G. alleging, arising out of, based upon or attributable to any breach of fiduciary duty or act, error or omission in his, her or its capacity as a **Fiduciary** or **Administrator** of any plan, fund or program (other than a **Covered Plan** as defined in this Policy) or by reason of his, her or its status as a **Fiduciary** or **Administrator** of such other plan, fund or program;
- H. for bodily injury, sickness, disease, death or emotional distress of any person, or damage to or destruction of any tangible property, including the loss of use thereof;
- I. alleging, arising out of, based upon or attributable to any **Wrongful Act** as respects a **Covered Plan** taking place at the time when the **Sponsor Organization** did not sponsor such **Covered Plan** or when the **Insured Person** was not a **Fiduciary** or **Administrator** of a **Covered Plan**; or
- J. alleging, arising out of, based upon or attributable to, directly or indirectly resulting from, or in consequence of, or in any way involving, **Pollution**, including but not limited to, any **Claim** for financial loss to the **Sponsor Organization** or a **Covered Plan**, its security holders or its creditors.

SECTION V. LIMIT OF LIABILITY

- A. The **Insurer** shall be liable to pay **Loss** in excess of the Retention amount stated in Item 4 of the Endorsement Declarations up to the Limit of Liability stated in Item 3 of the Endorsement Declarations.
- B. **Costs of Defense** shall be part of, and not in addition to, the Limit of Liability stated in Item 3 of the Endorsement Declarations, and such **Costs of Defense** shall serve to reduce the Limit of Liability.
- C. The **Insurer's** liability for all **Loss** arising from any and all **Claims** first made and reported during the **Policy Period** (and Discovery Period, if applicable) shall be the amount shown in Item 3 of the Endorsement Declarations and is not part of, and is in addition to, the Limit of Liability stated in Item 3 of the Declarations.

SECTION VI. RETENTION

- A. The obligation of the **Insurer** to pay **Loss**, including **Costs of Defense**, will only be in excess of the applicable Retention set forth in Item 4 of the Endorsement Declarations. The **Insurer** will have no obligation whatsoever, either to the **Insured** or any other person or entity, to pay all or any portion of any Retention amount by or on behalf of any **Insured** or its representative.
- B. More than one **Claim** alleging the same **Wrongful Act** or **Related Wrongful Acts** of one or more **Insureds** shall be considered a single **Claim**, and only one Retention shall be applicable to such single **Claim**. All such **Claims** constituting a single **Claim** shall be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such **Claim** was first made; or (2) the earliest date on which any such **Wrongful Act** or **Related Wrongful Acts** was reported under this Policy or any other policy providing similar coverage.
- C. The **Sponsor Organization** shall be responsible for, and shall hold the **Insurer** harmless from, any amount within the Retention.

V.

Section VII., VIII. and IX. are hereby modified as follows:

- A. **Section VII. Notice of Claim**, is hereby amended as follows:

- (1) The term "**Company**" is deleted from paragraph B. and replaced with the term "**Sponsor Organization**".
- (2) The term "**Related Employment Practices Wrongful Acts**" is deleted from paragraph A. and B. and replaced with the term "**Related Wrongful Acts**".
- (3) The term "**Employment Practices Wrongful Act**" is deleted from paragraph B. and replaced with the term "**Wrongful Act**".
- (4) The term "**Employment Practices Claim**" is deleted from paragraph B. and replaced with the term "**Claim**".

- B. **Section VIII. Discovery Period**, is hereby amended as follows:

- (1) The term "**Corporation**" is replaced with the term "**Sponsor Organization**" wherever it appears.

- (2) The term "**Employment Practices Wrongful Act**" is deleted from paragraph **A.** and replaced with the term "**Wrongful Act**".

C. Section IX. General Conditions, is hereby amended as follows:

- (1) The term "**Corporation**" or "**Company**" is replaced with the term "**Sponsor Organization**" wherever it appears.
- (2) The term "**Employment Practices Wrongful Act**" is replaced with the term "**Wrongful Act**" wherever it appears.
- (3) The term "**Employment Practices Claim**" is replaced with the term "**Claim**" wherever it appears.
- (4) The term "**Directors** and **Officers**" in the first and second sentence of paragraph **B.**, Application, is replaced with the term "**Insureds**".
- (5) **Section IX. E. Outside Entity Provision**, is hereby deleted in its entirety.
- (6) **Section IX. F. Coverage Extensions**, paragraph **(2) Worldwide Provision**, is hereby deleted in its entirety and replaced with the following:

Worldwide Provision

The coverage provided under this Policy shall apply worldwide. The terms **Sponsor Organization**, **Fiduciary** and **Administrator** are deemed to include the entity or persons who serve in equivalent positions in a foreign **Subsidiary**.

- (7) **Section IX. F. Coverage Extensions**, paragraph **(3) Estates and Legal Representatives**, is hereby deleted in its entirety and replaced with the following:

Estates and Legal Representatives

The coverage provided by this Policy shall also apply to the estates, heirs, legal representatives or assigns of any **Insured Person** in the event of their death, incapacity or bankruptcy, but only for **Claims** arising out of any actual or alleged **Wrongful Act** of such **Insured Person**.

- (8) **Section IX. G. Priority of Payments**, is hereby deleted in its entirety and replaced with the following:

- (1)** In the event there is a **Loss** arising from one or more covered

Claims for which payment is due under this Policy, the **Insurer** shall in all events:

- a. first pay such **Loss** for which coverage is provided under this Policy to an **Insured Person** and/or a **Covered Plan**; then,
- b. with respect to whatever remaining amount of the Limit of Liability is available after payment pursuant to Section G.1.(a) above, pay such **Loss** for which coverage is provided under this Policy to the **Sponsor Organization**.

(9) **Section IX. General Conditions**, is hereby amended by adding the following to the end thereof:

WAIVER OF RECOURSE

If this Policy has been purchased by an **Insured Person** rather than a **Covered Plan**, the **Insurer** shall have no right of recourse against any such **Insured Person**; however, the **Insurer** shall have a right of recourse against any **Insured Person** for any **Claim** by any **Insured** against any other **Insured** if such **Claim** is not initiated by and maintained independent of and without the assistance, participation or solicitation of the **Insured** against whom the **Claim** is made.

OTHER INSURANCE

All **Loss** payable under this Policy shall be specifically excess of and will not contribute with any other valid insurance (whether collectible or not), including, but not limited to, any other insurance under which there is a duty to defend, unless such other insurance is specifically stated to be and was underwritten as excess insurance to this particular Policy. This Policy will not be subject to the terms of any other insurance.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Authorized Representative

Date